



ORDINANCES

OF THE

YUKON TERRITORY

PASSED BY THE

YUKON COUNCIL

IN THE YEAR

1970



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FIRST SESSION

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CHAPTER 1

AN ORDINANCE RESPECTING
CO-OPERATIVE ASSOCIATIONS*(Assented to January 22, 1970)*

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. This Ordinance may be cited as the *Co-operative Associations Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance, Definitions.
- (a) "association" means an association incorporated under this Ordinance; "Association"
- (b) "by-laws" mean the standard by-laws and the supplemental by-laws of the association; "By-laws"
- (c) "extraordinary resolution" means a resolution passed by a majority of at least three-fourths of the members present at a general meeting of the association duly called for that purpose for which not less than thirty days notice specifying the intention to propose the resolution as an extraordinary resolution has been given; "Extraordinary resolution"
- (d) "member" means a person who is a member of an association pursuant to the by-laws of the association governing membership, and includes a person who has subscribed to the memorandum of the association, and also in the case of an association having share capital a shareholder of the association; "Member"
- (e) "Registrar" means the Registrar of Co-operative Associations appointed by the Commissioner pursuant to section 3; "Registrar"
- (f) "standard by-laws" means the by-laws prescribed by the Commissioner pursuant to this Ordinance. "Standard by-laws"

INCORPORATION.

Registrar. **3.** The Commissioner may appoint a Registrar of Co-operative Associations to carry out the duties set forth in this Ordinance.

Memorandum of Association. **4.** (1) Any five or more people who for the purpose of conducting and carrying on a co-operative undertaking, business or industry desire to associate themselves together as a co-operative association with or without share capital shall sign in duplicate a memorandum of association and comply with the requirements of this Ordinance respecting registration and incorporation of associations.

Signatures required. (2) The memorandum of association shall be signed by each applicant in the presence of a witness who shall attest the signature.

Contents of memorandum of association. (3) The memorandum of association shall state

- (a) the name of the association with the word "Co-operative" as part of its name and with "Limited" or "Ltd." as the last word in its name, the objects of the association and the place at which the registered office of the association is to be situated, and
- (b) if there is share capital, the amount of each share and whether the shares are unlimited in number or of a fixed number, or if there is no share capital, the terms of membership and the basis on which the interest of each member is to be determined.

Documents to be filed. (4) The memorandum of association and two copies of the standard by-laws signed by each subscriber to the memorandum of association shall be filed with the Registrar together with the fee as determined by the Commissioner pursuant to section 34.

Duties of the Registrar (5) Subject to section 8, the Registrar may approve, amend or reject the memorandum of association and by-laws or any part thereof, but

if the Registrar does not approve the memorandum or by-laws, he shall return them together with the fee referred to in subsection (4) to the applicants.

(6) Upon receipt of the documents and fee referred to in subsection (5) and if the memorandum of association and by-laws appear to the Registrar to comply with this Ordinance, he shall register them and issue a certificate of incorporation.

5. (1) From the date of incorporation set out in the certificate of incorporation, the subscribers to the memorandum of association and all such persons as thereafter become members of the association, become a body corporate and politic under the registered name of the association having perpetual succession and a common seal.

Certificate of incorporation.

(2) A certificate of the Registrar is conclusive proof that all the requirements of the Ordinance in respect of incorporation and registration and of matters precedent and incidental thereto have been complied with and that the association is duly registered under this Ordinance.

Certificate conclusive proof.

6. Upon the issue of a certificate of incorporation the Registrar shall cause a notice of the incorporation to be published at the expense of the association in such manner and at such times and places as he deems advisable.

Notice of incorporation.

7. The memorandum of association and by-laws are, upon registration, binding upon the association and members to the same extent as if the memorandum and by-laws had been signed and sealed by each member and contained covenants binding each member, his heirs, executors, administrators, and assigns to observe, subject to this Ordinance, all the provisions of the memorandum and the by-laws.

Memorandum and by-laws binding on all members.

8. The Registrar shall not approve any memorandum of association

Identical names.

- (a) where the proposed name is identical with that by which another association has been registered or so nearly resembling it as to be likely to deceive the members or the public, or

Restrictions on use of certain names.

(b) where the proposed name or part thereof includes any of the following words: "Imperial", "Crown", "King's", "Queen's", "Royal", "Dominion", the name of any Province or Territory of Canada or words of similar import.

Change of name.

9. (1) An association may by extraordinary resolution change its name, but the change of name does not affect any rights or obligations of the association or render defective any legal proceedings by or against the association, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

Alteration of memorandum by extraordinary resolution.

(2) An association may by extraordinary resolution amend or alter its memorandum of association but no extraordinary resolution shall have any force or effect until a copy thereof has been filed with and has been approved by the Registrar.

OBJECTS OF ASSOCIATION.

Objects of association.

10. (1) An association has, as ancillary and incidental to the object or objects set forth in the memorandum of association, the powers set out in Schedule A, unless such powers or any of them are expressly excluded by the memorandum of association.

(2) An association accepting a deposit of money from a member shall keep such money in a trust account available to the member upon his demand.

PROHIBITION.

Loans to members or directors.

11. No loan shall be made by an association to a member or director unless the association is specifically empowered by extra-ordinary resolution to make such loans.

BY-LAWS.

Standard by-laws.

12. (1) The Commissioner may from time to time prescribe standard by-laws not inconsistent with this Ordinance and any standard by-laws so prescribed shall be the by-laws of each association subject, however, to such modi-

fications or changes with respect to a particular association as may be made by supplemental by-laws of the association.

(2) An association may at an annual meeting or general meeting called for the purpose pass such supplemental by-laws as are deemed advisable by the association. Supplemental by-laws.

(3) The association may, by supplemental by-laws, amend, alter or rescind any existing by-laws of the association. Alteration of by-laws.

(4) No supplemental by-law shall have any force or effect until a copy thereof has been filed with and approved by the Registrar. Approval required.

SHARES IN ASSOCIATION HAVING SHARE CAPITAL.

13. (1) The capital of an association having share capital shall be divided into shares of such denomination as set out in the memorandum of association and may be changed from time to time by amendment of the memorandum. Shares.

(2) A share may be paid for by instalments at such time and in such manner as may be specified in the by-laws, but no person may purchase at any time more than one share by the payment of instalments and no member is entitled to draw interest on more than the paid-up portion of his share. Payment by instalments.

(3) The association has a lien on the shares of a member for a debt due to the association by him and may set off a sum credited to that member in or towards payment of the debt. Lien on shares.

(4) Shares are not transferable unless the by-laws provide for their transfer. Transfer.

(5) No application for a share shall be accepted and no allotment of a share is valid unless approved or authorized by the directors. Application for shares.

(6) No assignment or transfer of a share is valid unless approved by the directors. Approval of transfer.

14. (1) A member may nominate in writing any person not being an officer or servant of the association as the person to whom his shares shall be transferred upon his death, and he may revoke or vary the nomination from time to time. Nomination for transfer upon death.

Record. (2) Each association shall keep a book where the names of persons nominated under subsection (1) shall be entered.

Where person nominated. (3) Notwithstanding any provision in the by-laws of the association providing that the shares of the association are not transferable, the shares affected by entry in the book mentioned in subsection (2) are transferable subject to subsection (4) to the person nominated to receive them.

(4) Upon receiving satisfactory proof of the death of a nominator, the directors at their option shall

(a) transfer the shares as directed by the nominator, or

(b) pay to the person entitled to the shares the full value of his interest therein.

Transfer upon death of member. (5) If a member of an association entitled at his death to an interest in the association dies without having made a nomination that remains unrevoked at his death, the interest shall be transferred or the value thereof paid, at the option of the directors, to or among the persons who are entitled thereto.

MEMBERSHIP.

Membership. 15. (1) Subject to the provisions of this Ordinance, membership in an association is governed by the by-laws of the association.

(2) Every subscriber to the memorandum of association shall be deemed to have agreed to become a member of the association and shall, upon its registration, be entered upon the register of members.

(3) No person shall become a member of an association until his application for membership has been approved by the directors and he has complied fully with the by-laws governing admission of members.

(4) Notwithstanding subsection (3), an application for shares in an association having a share capital constitutes an application for membership and the allotment of a share or shares to the applicant constitutes acceptance of the application.

Transfer of membership. (5) Membership in an association may be transferred but no transfer is valid unless authorized by the board of directors.

(6) Unless provision is made in the by-laws of the association to the contrary, a person of the age of sixteen years

Minor.

- (a) may be a member;
- (b) in the case of an association having share capital, may be a shareholder; and
- (c) may, subject to the by-laws of the association, enjoy all the rights of a member or shareholder, as the case may be, and execute all instruments and give all acquittances necessary to be executed or given under the by-laws.

(7) A co-operative association may be a member of another association.

Co-operative may be member.

(8) A member may be expelled if he fails to comply with the provisions of this Ordinance or the by-laws of the association after a hearing by a two-thirds vote of the members present at a special general meeting called to consider the expulsion.

Expulsion of member.

LIABILITIES OF SHAREHOLDERS AND MEMBERS.

16. (1) The liability of the shareholders of an association having share capital is limited so that

Limitation of shareholders' liability.

- (a) no shareholder in an association is in any manner liable for or chargeable with the payment of a debt or demand due by the association beyond the amount remaining unpaid of the face value of his share or shares, and
- (b) a shareholder having fully paid up the amount of his share or shares is absolved from all further liability.

(2) The liability of members of an association, other than shareholders of an association having share capital, is limited so that

Limitation of members' liability.

- (a) no member is in any manner liable for or chargeable with the payment of a debt or demand due by the association beyond the amount due and unpaid with respect to the membership fees of such member, and

- (b) a member whose membership fees are paid in full is absolved from all further liability.

MANAGEMENT AND ADMINISTRATION.

Registered office. **17.** (1) An association shall have a registered office as designated in the memorandum of association at which place services may be made and notices sent.

Register. (2) The association shall keep a register or list of members which is *prima facie* proof in court of the particulars entered therein relating to

- (a) the names, addresses and occupations of the members, the number of shares held by them respectively, the numbers of such shares if they are distinguished by numbers, and the amount paid or considered as paid on any such shares;
- (b) the date upon which the name of a person was entered in such register or list as a member; and
- (c) the date upon which such person ceased to be a member.

Inspection of register. (3) The association shall allow a member to inspect the share or membership register of the association at reasonable times during business hours at the head office of the association, or place where the same is kept, subject to such regulations as to the time and manner of inspection as may be made from time to time by the association in general meetings.

Fiscal year. **18.** Unless another period is prescribed by the by-laws of the association, the fiscal year of an association shall begin on the first day of January in each year and end on the thirty-first day of December next following.

DIRECTORS.

Number of directors. **19.** (1) Where the number of members in an association is less than ten, there shall be three directors.

(2) Where the number of members in an association is ten or more there shall be a minimum of five directors.

20. (1) The directors of an association shall be elected by ballot at an election held on the day and in the manner designated in the by-laws, and shall hold office for a period as provided in the by-laws.

Election of directors.

(2) If the election of directors is not held on the day designated in the by-laws of the association, an election shall be held on another day and all acts of the directors before their successors are elected, unless otherwise invalid, are valid and binding.

(3) All acts of the directors are valid notwithstanding any defect in their appointment, election or qualifications.

Acts of directors valid.

(4) If a director is elected at the first general meeting who is not a member of the association at the time of his election, and he fails to become a member within two months from the date of his election, he shall cease to be a director.

Directors to be members.

(5) No person who is not a member of the association shall, after the first general meeting, be elected or appointed director and the election or appointment as a director of a person not a member is void.

Qualification.

(6) When a vacancy appears on the board of directors, the remaining directors may appoint a member of the association as a director, who shall then hold office until the next general meeting of the association.

Vacancy on board.

(7) The directors shall have the general direction and supervision of the affairs and business of the association.

General powers of directors.

(8) Meetings of the directors shall be held at least once every three months.

Meetings of directors.

(9) No member or shareholder under the age of eighteen years shall be a director, manager or treasurer of the association.

Minors.

MEETINGS OF ASSOCIATIONS.

21. (1) The first general meeting of an association shall be held within three months from the date of incorporation and thereafter a general meeting shall be held annually at such time and place as is prescribed by the by-laws.

Meetings.

(2) Special general meetings of the association may be called at other times as prescribed by the by-laws.

Special meetings.

- (3) At meetings of the association,
- Votes. (a) a member shall have one vote only regardless of the number of shares held by him, and
- Proxies. (b) no member may vote by proxy except where provision is made in the by-laws for representation by delegates.

CONTRACTS.

- Contracts. **22.** (1) Contracts on behalf of an association may be made as follows:
- (a) any contract which if made between private persons would by law be required to be in writing and under seal may be made on behalf of the association in writing under the common seal of the association and may in the same manner be varied or discharged;
- (b) any contract which if made between private persons would by law be required to be in writing signed by the parties thereto may be made on behalf of the association in writing signed by any person acting under its authority, express or implied, and may in the same manner be varied or discharged; and
- (c) any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing, may be made by parol on behalf of the association by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

Marketing contracts. (2) The association may make marketing contracts with any of its members or any group or class of its members requiring them to sell for a period of time, not over five years, all or any part of their products specified in the contracts exclusively to or through the association or any agency created or indicated by the association.

(3) Where a member of an association having entered into a marketing contract with the association does not within twelve months of the date of a contract make delivery of the products or commodities which he is re-

quired by the contract to deliver, he may be excluded from membership in the association in accordance with subsection (8) of section 15.

CREDIT.

23. (1) An association may authorize by by-law the borrowing of money from its members for definite periods of not less than ninety days, and such money shall be credited to an account to be known as the Loan Capital Account which may be used for any of the purposes of the association including payments for goods purchased or expenses incurred in connection therewith or the shipment thereof.

Borrowing from members.

(2) An association may pledge its credit for the purchase of goods, wares or merchandise or in any other transaction coming within the scope of its corporate powers.

Credit pledged.

24. (1) No association shall sell goods, wares or merchandise to its members or customers on credit or in any other manner than for cash except as may be authorized by by-law, but in no event shall there be owing to the association at any time with respect to credit sales an amount in excess of one-half the amount of the working capital as shown by the previous year's auditor's annual report.

Sale on credit.

(2) For the purposes of this section and of section 27, "working capital" shall be construed to include share capital, debenture or bond indebtedness, general reserve fund, deferred dividends or participating reserves and undistributed surplus or deficit accounts.

"Working capital" defined.

DISPOSITION OF SURPLUS

25. Subject to section 27, the amount available for distribution to members at the close of each fiscal year of an association shall, within six months from the close of each fiscal year, be allocated in the manner provided by the by-laws.

Annual Distribution of Surplus.

26. (1) Subject to subsections (2) and (3), an association shall designate not less than twenty per cent of the amount available for distribution to members at the end of each fiscal year as a reserve for contingencies and the amount so designated shall not be distributed to the members.

Maintenance of a reserve for contingencies.

Amount of
reserve.

(2) Subsection (1) does not apply to an association when its reserve for contingencies reaches an amount equivalent to

- (a) thirty per cent of the value of its assets in the case of an association having assets of a value of twenty-five thousand dollars or less;
- (b) twenty per cent of the value of its assets in the case of an association having assets of a value exceeding twenty-five thousand but not exceeding fifty thousand dollars; and
- (c) ten per cent of the value of its assets in the case of an association having assets of a value exceeding fifty thousand dollars;

but if in the fiscal year that reserve is reduced below the minimum amount specified by this section, twenty per cent of the amount available for distribution to members at the end of that fiscal year, or such lesser amount as will restore the reserve in the first year to the minimum amount specified by this section, shall be designated as part of the reserve for contingencies until the reserve is restored to the minimum amount.

(3) An association without share capital shall set aside its net surplus, if any, at the end of each fiscal year as a reserve for contingencies and shall not distribute this reserve to its members.

(4) Where the Registrar does not agree with the value an association places on its assets for the purpose of subsection (2) he may place a value on the assets and this valuation shall, for the purpose of subsection (2) be the value of the assets.

WITHDRAWAL OF MEMBERS.

Withdrawal
of members.

27. (1) Members may withdraw from membership in the association in the manner provided by the by-laws and subject to the following conditions:

- (a) the directors may require notice, not exceeding six months, of the proposed withdrawal of a member; and
- (b) the association is not required to permit the withdrawal of a member in any fiscal year

if the result would be to reduce the amount of working capital of the association at the beginning of that fiscal year by ten per cent or more.

(2) When a member withdraws from membership in an association or is expelled, the board shall make available to the member

- (a) where the association has share capital, the paid-up value of all shares held by the member;
- (b) any amount held by the association to the credit of the member; and
- (c) the equity of the member other than shares in the assets of the association.

DISSOLUTION.

28. (1) When the Registrar has reasonable cause to believe that an association is not carrying on business or is not in operation, he shall send by ordinary post a letter addressed to the association at its registered office inquiring whether the association is carrying on business or is in operation. Dissolution.

(2) If the Registrar does not, within two months of sending the letter, receive an answer thereto, he shall, within fourteen days after the expiration of the two-month period, send by registered post a letter referring to the first letter and stating that no answer thereto has been received by him and that if an answer is not received to either letter within two months from the date of the second letter a notice will be published in such manner as he deems necessary with a view to striking the name of the association off the register. Notification.

(3) If the Registrar receives an answer from the association to the effect that it is not carrying on business or in operation or if he does not within two months after sending the second letter receive an answer thereto, the Registrar may publish in such manner as he deems necessary and send by ordinary post to the association notice that at the expiration of two months from the date of that notice he will strike the name of the association off the register and dissolve the association. Publication.

Name of association struck off register.

(4) At the expiration of the time mentioned in the notice referred to in subsection (3), the Registrar shall, unless cause to the contrary is previously shown by the association, strike the name of the association off the register, and in such cases he shall publish notice thereof in such manner as he deems necessary whereupon and whereby the association is dissolved.

Substance of association after dissolution.

(5) Where an association is dissolved under this section, the association shall nevertheless be considered as subsisting in all respects subject to the provisions of this section so long and so far as a matter relating to the association remains unsettled, and the association may do all things necessary to the winding up of the concerns thereof, and may sue and be sued in respect of all unsettled matters.

Application of Companies Ordinance.

29. The winding up provisions of the Companies Ordinance shall, in so far as they are applicable, apply to an association.

SUPERVISION.

Appointment of auditor.

30. (1) An association shall appoint, in the manner prescribed by the by-laws, a person to hold the office of auditor who shall upon the approval of the Registrar be auditor for the association.

Audit of accounts.

(2) At the close of each fiscal year the association shall submit its accounts for audit by the auditor.

Annual return to Registrar.

(3) Every association shall within ninety days from the close of each fiscal year send to the Registrar a general statement in such form and including such details as the Registrar may require of the affairs of the association accompanied by a copy of the financial statement for the preceding fiscal year certified by the auditors.

Annual return to members.

(4) An association shall supply to each member upon his application without charge a summary of the latest auditor's annual statement of the association.

Registrar may request information.

(5) An association shall upon request furnish the Registrar with any information he may require for purposes of this Ordinance.

Inquiry by Registrar.

31. The Registrar shall, upon the order of the Commissioner or upon receipt of a request in writing containing the signatures of

- (a) at least fifty per cent of the members where there are ten members or less in the association, or
- (b) at least ten per cent of the members or six members, whichever is the greater, where there are over ten members in the association,

hold an inquiry into the affairs of the association and make a report of the results of the inquiry to the Commissioner.

32. (1) If it appears to the Commissioner from the Registrar's report made pursuant to section 31 that the affairs of the association

Appointment of Administrator.

- (a) are being mismanaged, or
- (b) are not being conducted in accordance with co-operative principles,

he may cancel the incorporation of the association or appoint an administrator to protect the equities of the members.

(2) An administrator appointed pursuant to subsection (1)

Duties of Administrator.

- (a) shall have all the powers of the directors and may perform all or any of the duties of the officers of the association;
- (b) shall be responsible to the Registrar for the conduct of the business of the association and carry out all orders and directions of the Registrar with respect to the association; and
- (c) may pay the expenses of administration out of the funds of the association.

(3) The administrator shall take all steps and do all things necessary to protect the equities of the members and the rights of the creditors of the association, and shall maintain, so far as is practicable, the services provided by the association.

(4) Where an administrator is appointed pursuant to subsection (1), the directors and officers of the association shall not thereafter, so long as the administrator remains in charge of the conduct of the business of the association, exercise any of the powers conferred upon them by this Ordinance and the by-laws.

Powers and duties of officers removed.

Administra-
tor has
access to
books,
accounts,
etc.

(5) For the purposes of this section, the administrator shall have access to all books, accounts, securities, documents, vouchers, cash, goods, wares, merchandise and other assets of the association and any security held by the association.

Calling of
special
meeting.

(6) Subject to the approval of the Registrar, the administrator may call a special general meeting of the members of the association to report to them on the affairs of the association and steps taken by him to protect their equities.

Administra-
tor conducts
business.

(7) The administrator shall conduct the business of the association until the Registrar is satisfied to have the management of its affairs resumed by its officers or until the association is dissolved and a liquidator is appointed to wind up its affairs.

OFFENCES AND PENALTIES.

Offence.

33. (1) Every person or association who

- (a) fails to give notice, send a return or document or do or allow to be done any act or thing that the association is by this Ordinance required to give, send, do or allow to be done;
- (b) neglects or refuses to do an act or to furnish information required for the purposes of this Ordinance by the Registrar or other person authorized under this Ordinance, or does an act or thing forbidden by this Ordinance; or
- (c) wilfully furnishes information in any respect false or insufficient;

is guilty of an offence.

Penalty.

(2) Every association or corporation that is guilty of an offence against this Ordinance is liable on summary conviction to a fine not exceeding \$1,000.00.

(3) Every person, other than a person referred to in subsection (2), who is guilty of an offence against this Ordinance is liable on summary conviction to a fine not exceeding \$500.00 or to imprisonment for a term not exceeding two months, or to both such fine and imprisonment.

(4) Where a fine is imposed under subsection (3) a term of imprisonment may be imposed in default of payment of the fine but no such term shall exceed two months.

(5) An offence against this Ordinance by an association shall be deemed to have been committed by each officer of the association where the offence of the association is caused by an officer failing to perform the duties of his position as required by the by-laws, or if there is no such officer, then by each of the directors unless the officer or director is proved to have attempted to prevent the commission of the offence.

Officer
guilty as
well as
association.

GENERAL.

- 34.** The Commissioner may make regulations Regulations.
- (a) prescribing the fees payable for services rendered under this Ordinance;
 - (b) prescribing standard by-laws not inconsistent with this Ordinance;
 - (c) prescribing forms for the carrying out of this Ordinance; and
 - (d) generally for carrying the purposes and provisions of this Ordinance into effect.

SCHEDULE A

INCIDENTAL AND ANCILLARY POWERS OF THE ASSOCIATION.

The association has, as ancillary and incidental to the object or objects set forth in the memorandum of association the following powers:

- (a) the power to purchase, take on lease or in exchange, hire or otherwise acquire and hold real or personal property that the association deems necessary or convenient for the purposes of its business, and to sell, mortgage, lease or otherwise dispose of such property;
- (b) the power to construct, improve, maintain, develop, work, manage, carry out or control roads, ways, sidings, factories, warehouses, tanks, shops, stores, and other works and conveniences that may seem calculated to advance, directly or in-

directly, the interests of the association, and to contribute to, subsidize or otherwise assist or take part in the construction, improvement, maintenance, working, management, carrying out or control thereof;

- (c) the power to acquire or undertake the whole or any part of the business, property and liabilities of a person, company, association or society, wheresoever incorporated, and carrying on any business that the association is authorized to carry on, or possessed of property suitable for the purpose of the association;
- (d) the power to take or otherwise acquire and hold shares, stock, debentures or other securities of a company, association or society incorporated by or under the provisions of an Ordinance of the Territory, and having objects wholly or in part similar to those of the association, and to sell or otherwise deal with the same;
- (e) the power, subject to the written approval of the Registrar, to take or otherwise acquire and hold shares, stock, debentures or other securities of or membership in another co-operative association wheresoever incorporated or of a company, association, or society incorporated under a special Ordinance of the Territory or under the Companies Ordinance, and having objects wholly or in part similar to those of the co-operative association, and to sell or otherwise deal with the same;
- (f) the power to enter into an agreement for co-operation, joint adventure, reciprocal concession or otherwise with another association, or with a person, company or co-operative marketing association having objects wholly or in part similar to the objects of the association or engaged in a business or enterprise capable of being conducted so as directly or indirectly to benefit the association;
- (g) the power to unite with a person, company, association or co-operative marketing association in employing and using the same personnel, methods,

means or agencies for carrying on and conducting their respective businesses, or to use by a separate employment the personnel, means and agencies of another person, company, association or co-operative marketing association;

- (h) the power to enter into arrangements with a government or authority, municipal, local or otherwise, that seem beneficial to the association, and to obtain from such government or authority any rights, privileges and concessions that the association thinks it desirable to obtain and to carry out, exercise and comply with such arrangements, rights, privileges and concessions;
- (i) the power to draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;
- (j) the power to borrow and secure the payment of money on such terms and conditions as the directors may by resolution determine;
- (k) the power to invest and deal with the moneys of the association not immediately required, in such manner as may from time to time be determined by the directors;
- (l) the power to make or hold mortgages, hypothecs, liens and charges to secure payment of the price of any part of the property of the association sold by the association or any money due to the association from purchasers and others, and to assign or otherwise dispose of the said mortgages, hypothecs, liens and charges;
- (m) the power to establish and support or aid in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit employees or ex-employees of the association or its predecessors in business, or the dependents or connections of such persons, to grant pensions and allowances and to make payments towards insurance;
- (n) the power to subscribe or guarantee money for charitable or benevolent objects or for an exhibition or for a public, general or useful object;

- (o) the power to carry on, encourage and assist educational and advisory work relating to co-operative activities;
- (p) the power to enlarge the area of its operations by establishment of branches or other means;
- (q) the power to sell or dispose of the undertaking of the association or part thereof for such consideration as the association thinks fit, and in particular for shares, debentures, securities or other interest in an association having objects altogether in part similar to those of the association;
- (r) the power to do all other things that are incidental or conducive to the attainment of the objects and the exercise of the powers of the association;
- (s) the power, subject to subsection (2) of section 14, to accept money on deposit from its members for future purchase of goods or services by the members;
- (t) the power to become a member of a credit union registered under the Credit Union Ordinance;
- (u) the power to deposit money on either deposit or share account or both, with a credit union of which the association is a member, or a federation of credit unions registered under the Credit Union Ordinance, or to loan money to, or borrow from any such union or federation;
- (v) the power generally to carry on and undertake a business that seems capable of being conveniently carried on in connection with the business of the association, or calculated to enhance, directly or indirectly, the value of or render profitable any property or rights of the association; and
- (w) the power to do all or any of the above things as principal, agent, contractor or otherwise and by or through trustees, agents or otherwise and either alone or in conjunction with others.

CHAPTER 2

AN ORDINANCE TO PROVIDE FOR THE
WELFARE OF CHILDREN

(Assented to January 22, 1970)

- 1.** This Ordinance may be cited as the *Child Welfare Ordinance*. Short
Title.

INTERPRETATION.

- 2.** In this Ordinance, Born out of
wedlock.
- (a) "born out of wedlock" means born to a mother who, at the time of the conception of the child, was
- (i) unmarried; or
 - (ii) widowed or divorced at least three months prior to that date; or
 - (iii) a married woman who for a period of at least three months immediately prior to that date was living separate and apart from her husband;
- and who has continued to be unmarried or to live apart from her husband up to the date of the birth of her child;
- (b) "boarding home" means any private home, group living home, hostel or other similar institution, except a foster home, wherein care, food and lodging are furnished with or without charge for any child living apart from his parent or parents; Boarding
home.
- (c) "child" means an unmarried person Child
- (i) actually or apparently under the age of eighteen; or
 - (ii) under the age of twenty-one years when guardianship of the Director has been extended pursuant to section 16; or under Part IV of this Ordinance;

- Day nursery. (d) "day nursery" includes any play school, kindergarten, nursery school, or other similar place in which any child is placed for temporary protective care during all or any portion of the day;
- Director. (e) "Director" means the Director of Child Welfare appointed under this Ordinance;
- Foster home. (f) "foster home" means a private home which has been approved by the Director for the placement of a child, irrespective of whether any payment is made for maintenance of such child;
- Group home. (g) "group home" means a home established pursuant to this Ordinance, in which a child may be placed by the Director to receive special care;
- Guardian. (h) "guardian" in addition to the natural parent or parents and a legally appointed guardian of the child, includes the Director when the child has been committed to his protective care under Part II of this Ordinance;
- Justice. (i) "justice" means a judge of a juvenile court and includes a police magistrate or any justice of the peace;
- Parent. (j) "parent" includes a step-parent or guardian except in Part IV;
- Protective care. (k) "protective care" includes custody, care and control;
- Ward. (l) "ward" includes any child committed by order of a justice to the protective care of the Director or by any court to any corresponding authority in any province of Canada or any other country or part thereof.

PART I

DIRECTOR OF CHILD WELFARE.

Director of Child Welfare.

- 3.** (1) The Commissioner may appoint an officer to be called the Director of Child Welfare who shall hold office during pleasure.

(2) The Commissioner may appoint one or more officers to be called Assistant Directors of Child Welfare who shall hold office during pleasure.

(3) An Assistant Director of Child Welfare has all the powers, duties and functions of a Director.

4. The Commissioner may appoint such persons Staff. to assist the Director in the performance of any of his duties under this Ordinance as he deems necessary.

5. (1) The Director shall Duties of Director.
- (a) ensure that the provisions of this Ordinance are carried out;
 - (b) direct and supervise the visiting of any child and the inspection of any place where a child is placed pursuant to this Ordinance;
 - (c) administer and supervise any group home established pursuant to this Ordinance;
 - (d) ensure the safeguarding of all children and the amelioration of family conditions that lead to neglect, and the care and control of children in need of protection;
 - (e) prepare and submit an annual report to the Commissioner, and
 - (f) perform such other duties as may devolve upon him under any other Ordinance.

(2) The Director shall have general superintendence over all matters pertaining to the welfare of children in accordance with this Ordinance.

(3) The Director may inspect and set rules, standards of care and living accommodation in any foster home, group home, boarding home or day nursery in which a child may be placed by him or by the parents of the child or the person in whose charge he is.

PART II

PROTECTION OF CHILDREN.

6. For the purpose of this Part a child is deemed When Child is in need of protection. to be in need of protection when

- (a) he is an orphan who is not being properly Orphan. cared for;

- Desertion. (b) he is deserted by the person in whose charge he is;
- Incapacity. (c) the person in whose charge he is cannot care properly for him;
- Consent. (d) he is brought, with the consent of the person in whose charge he is, before a justice to be dealt with under this Part;
- Abandonment. (e) he is under the age of twelve years and is frequently left by the person in whose charge he is without care and supervision of an older person or when such older person fails to give him proper and adequate care and supervision;
- Unfit home. (f) his home by reason of neglect or depravity on the part of the person in whose charge he is, is an unfit or improper place for him;
- Unfit associates. (g) he is found associating with an unfit or improper person who is not his parent;
- Begging. (h) he is found begging in any street, house or place of public resort, whether actually begging or under the pretext of selling or offering anything for sale or is found loitering in a public place;
- Criminal connivance. (i) with the consent or connivance of the person in whose charge he is, he commits any act that renders him liable to a penalty under any ordinance, Act of Parliament of Canada or municipal by-law;
- Inadequate control. (j) by reason of the inadequacy of the control exercised by the person in whose charge he is, he is being allowed to grow up under circumstances tending to make him idle, dissolute, delinquent or incorrigible, or without a proper education;
- Truancy. (k) he habitually absents himself from the home of the person in whose charge he is, or from school when he is within the compulsory school attendance age, without sufficient cause;
- Neglect of health care. (l) the person in whose charge he is neglects or refuses to provide or secure proper medical,

surgical or other remedial care or treatment for his health or well being, or refuses to permit such care or treatment to be supplied to the child when it is recommended by a medical practitioner;

- (m) he is deprived of affection by the person in whose charge he is, to a degree that is sufficient to hinder his emotional and mental development; Lack of affection.
- (n) he is by reason of the ill-treatment, cruelty, frequent personal injury, grave misconduct or frequent intemperance of or by the person in whose charge he is, in danger of loss of life, health or morality; Ill-treatment.
- (o) the person in whose charge he is, is incapable of exercising or unwilling to exercise proper parental control; Lack of control.
- (p) he is a child born out of wedlock whose mother consents to him being brought before a justice for the purpose of transferring his guardianship to the Director; Consent.
- (q) his parents or only parent is undergoing imprisonment or is a patient in a hospital for the mentally ill, a tuberculosis sanatorium, or rehabilitation centre for physical restoration of the disabled. Absence of parents.

7. (1) Where the Director, a peace officer or any person authorized in writing by the Director, has reason to believe and does believe that a child is in need of protection he may apprehend the child without warrant and take him to a place of safety. Apprehension without warrant.

(2) Where the Director, a peace officer or any person authorized in writing by the Director has reason to believe and does believe

- (a) that a child is in need of protection in any place, or
- (b) that a child committed to the protective care of the Director has absconded and is being harboured in any place

he may without warrant enter such place by day or night using force if necessary to effect entry and apprehend such child.

(3) A person who apprehends a child pursuant to subsection (1) or paragraph (a) of subsection (2) shall bring the child before a justice as soon as possible but in any event within ten days of such apprehension and make an application for an order under section 11.

Notice of application.

8. A person who apprehends a child pursuant to section 7 shall give reasonable notice of the time when and the place where the child is to be brought before a justice to

- (a) the parents if their address is known; and
- (b) the person having actual care and custody of the child if the child was living apart from his parents, and if his address is known; and
- (c) the Director.

Determination.

9. The justice before whom a child is brought pursuant to subsection (2) of section 7 shall, upon hearing such evidence as may be adduced at the hearing, determine whether or not the child is in need of protection.

Adjournment.

10. (1) The justice may, from time to time, adjourn the case for such length of time as he deems proper but shall, except as provided by section 11, make a final disposition within four months of the commencement of the case.

(2) Pending the final disposition of the case the justice may direct that the child remain in the protective care of his parents, or the Director, or such other suitable person as the justice deems fit.

(3) Nothing in subsection (1) shall operate to prevent a fresh application being made to the justice in respect of the child.

Justice's Order.

11. (1) If the justice determines that a child is in need of protection, he shall make an order setting out his findings and a statement of the facts, including the name, date of birth, place of birth, nationality, religion and status of the child, the name and place of abode, occupa-

tion, and religion of the parents or either of them, and whether or not either of such parents is dead or has abandoned the child.

(2) An order under subsection (1) may provide that ^{Other Orders.}

- (a) the case be adjourned generally and the child be returned to his parents or any other person having actual care and custody of the child at the time of apprehension, or other suitable person, subject to inspection and supervision by the Director;
- (b) the child be delivered into the control of his parents or any person having actual care and custody of the child at the time of apprehension, or other suitable person, subject to such terms and conditions as seem reasonable and proper to the justice; or
- (c) the child be committed to the protective care of the Director either permanently or for a fixed temporary period which may be extended from time to time, but in no case shall an order be made at any time that results in the continuous temporary protective care of the child for a period of more than two years from the date of the first order for the temporary protective care.

(3) A justice may convert a temporary order into a permanent order at any time.

(4) When a child is committed to the protective care ^{Director to be guardian.} of the Director

- (a) he may take the child into protective care for placement in accordance with this Part, and
- (b) the Director shall be the guardian of the person and property of the child and all powers and rights of the parents vest in the Director but in the case of a temporary order, the consent of the parents to an application for an adoption order shall be required.

(5) Where, pursuant to subsection (2), a child has ^{Fresh application.} been returned to his parents or other person having the actual care and custody of the child, or has been committed to the protective care of the Director, the Director may,

upon giving five days notice to the other persons mentioned in section 8, bring the case again before a justice who, after investigation, may make such further order under subsection (1) as seems proper to him.

Copy of orders.

12. The justice shall deliver to the Director a certified copy of the order made in each case.

Single order.

13. Where two or more children of the same family are brought before the justice at the same time on the same application, only one order need be made.

No liability for medical treatment.

14. From the time that a child is apprehended pursuant to subsection (1) of section 7 until final disposition by the justice, the Director is responsible for the care, maintenance and physical well-being of the child and no liability shall attach to him or to any duly qualified medical practitioner by reason only that the child is provided with necessary medical or surgical care during such time.

Placement of child.

15. (1) Where, pursuant to subsection (2) of section 11, the justice commits a child to the protective care of the Director, the Director shall make arrangements as soon as may be for placing the child in a foster home or such place as he deems suitable within or outside the Territory having regard to the interests and welfare of the child, but the Director may withdraw the child from any such foster home or other place if, in his opinion, the welfare of the child so requires.

Director to be guardian.

(2) Where a child has been committed to the protective care of the Director pursuant to paragraph (c) of subsection (2) of section 11, the Director shall exercise all the rights vested in him by subsection (4) of section 11 until

- (a) the guardianship is terminated by an order made under subsection (2) of section 17;
- (b) the child reaches the age of eighteen years or, in the case of a female child, marries with the consent of the Director before reaching that age;
- (c) the child is adopted pursuant to Part IV; or
- (d) in the case of a temporary order, the order expires.

16. (1) Notwithstanding section 15, where it is in the interest of the welfare of a child who is under the guardianship of the Director, a justice may, upon application by the Director make an order providing that the Director continue to be the guardian of the child for such period as he considers proper beyond the day on which the child reaches the age of eighteen years, but not beyond the day on which the child reaches the age of twenty-one years, in which case the provisions of subsection (2) of section 15 shall apply *mutatis mutandis*.

Extension
of Guardian-
ship.

(2) This section applies to orders made under the *Protection of Children Ordinance*.

Transitional
application.

17. (1) Where a child has been committed to the temporary protective care of the Director under subsection (2) of section 11, the Director or any person to whom the child may be returned by an order made pursuant to subsection (2) of section 11 may apply to a justice to make

Application
for
variation.

- (a) an order rescinding the order of protective care, or
- (b) an order that without rescinding the order of protective care grants permission for the child to be returned under the supervision of the Director, either permanently or temporarily, to his parent or any other person having actual care and custody of him at the time he was apprehended, or other suitable person.

(2) Where

- (a) an application is made pursuant to subsection (1), and
- (b) the justice is satisfied that an order made under this subsection would benefit the child,

Order
subject to
conditions.

the justice may make an order granting the application subject to such conditions as he considers proper.

(3) Five days' notice of an application made under subsection (1) shall be given by the person making the application.

Notice of
Application.

- (a) to every person to whom the child may be returned by an order made under subsection (2), and

(b) where the applicant is a person other than the Director, to the Director.

Wishes of child.

(4) Where an application is made pursuant to subsection (1), the justice in making any order under subsection (2) may take into account the wishes of the child when it is considered the age of the child is such as to make him competent to understand the nature of the proceedings.

VISITING AND INSPECTION.

Foster home etc., subject to rules.

18. Every person in charge or apparent charge of, or operating a foster home or boarding home or day nursery who undertakes or assumes in any manner, the care of children for all or any portion of a day or for any period of time on a continuing basis, shall in addition to all other requirements of this Ordinance

(a) conform to the rules, standards of care and living accommodation set by the Director under subsection (3) of section 5,

(b) upon request of the Director or any person authorized by the Director

(i) furnish to the Director or the person so authorized full information and particulars concerning any child in his care;

(ii) permit the Director or person so authorized to inspect all parts of the premises in which the child is cared for, except any parts thereof used exclusively for residential purposes by him or the staff of such foster home, boarding home or day nursery, or for religious and residential purposes by any member of a religious order therein, and to have access to all children therein, and all books and records of the home or organization, dealing with the care of such children.

Inspection.

19. The Director or any person so authorized by the Director may at any time visit any foster home, boarding home, day nursery or group home where a child may be placed apart from his parents for part or all of a day or for a period of time on a continuing basis.

20. (1) Any parent, or any person having charge of a child, who, for reasons considered adequate by the Director, is unable to make adequate provision for the child, may make application to the Director to have the child placed temporarily in the care of the Director. Temporary care.

(2) The Director may enter into an agreement with the applicant to accept the child for care for a period not exceeding one year. Temporary care agreement.

(3) Where the Director deems it to be in the best interest of the child to do so, he may, upon the request of the applicant, renew the agreement from time to time. Renewal of agreement.

(4) The Director may, if he deems it to be in the best interest of the child, terminate an agreement entered into under this section and cause the child to be brought before a justice for examination, and the justice may, if on investigation he deems it to be in the best interest of the child to do so, make such order under section 11 as he deems proper. Application to justice.

21. (1) The Director may apply to a justice for an order of closure of any boarding home or day nursery. Closure of boarding home etc.

(2) If the justice is satisfied that the person in charge or apparent charge of or operating such boarding home or day nursery has not conformed to the rules, standards of care and living accommodation prescribed by the Director, he shall issue an order of closure. Grounds.

(3) Any application under this section may be made *ex parte* or on notice but where an order is granted *ex parte* the person aggrieved by such order shall be given the opportunity of being heard and of calling evidence. Aggrieved person to be heard.

TRANSFER OF WARDS.

22. (1) Where a child who is a ward, is by agreement with the Director transferred to the Territory, the Director may assume the protective care of the child and the right to give consent to medical or surgical care and treatment as recommended by a duly qualified medical practitioner, but guardianship remains vested in the authority to whom the child was committed. Child from another jurisdiction.

Transfer to another jurisdiction.

(2) Where a child who has been committed to the protective care of the Director pursuant to this Ordinance, is by agreement with the appropriate authority transferred to any province of Canada or any other country or part thereof, the Director may place the child in the protective care of that authority and grant to him the right to give consent for medical or surgical care and treatment as recommended by a duly qualified medical practitioner, but guardianship remains vested in the Director.

Conflict of laws.

(3) Every order of wardship of a child made according to the laws of any province of Canada or any other country or part thereof shall for all purposes in the Territory have the same effect as an order for protective care made pursuant to this Ordinance, and while any such child is in the Territory whether by agreement under subsection (1) or not, the Director shall act in *loco parentis* on behalf of such child.

Establishment of group homes.

23. The Commissioner may from time to time as he deems advisable establish group homes or other types of child caring facilities for the special care of children who are in the protective care of the Director.

Offences.

24. No person shall

- (a) induce or attempt to induce a child to abscond from a foster home, boarding home, day nursery or group home in which he was placed by the Director;
- (b) detain or knowingly harbour an absconding child committed to the protective care of the Director;
- (c) having the care, control or charge of a child, ill-treat, neglect, desert, abandon or expose such child or procure the ill-treatment, neglect, desertion, abandonment or exposure of such child;
- (d) omit to perform a duty placed upon him under this Ordinance.

Public duty to report.

25. (1) Every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to the Direc-

tor, the Assistant Director or any member of the social work staff of the Department of Social Welfare.

(2) Subsection (1) applies notwithstanding that the information is confidential or privileged, and no action lies against the informant unless the giving of the information is done maliciously or without reasonable and probable cause.

Information privileged.

26. Any person who

Penalties.

- (a) violates the provisions of sections 18, 24, or 25;
- (b) fails to comply with an order of a justice under this Part; or
- (c) interferes with or obstructs the Director or any officer acting under his authority in the execution of his duties under this Part;

is guilty of an offence and liable upon summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

COST OF MAINTENANCE.

27. (1) Where a justice commits any child to the protective care of the Director, he may at the same time, or subsequently upon application by the Director, make an order for payment by the parent of the child of any costs or portion thereof incurred by the Director in maintaining and supervising the child in any temporary home or in any foster home, boarding home or day nursery.

Costs of maintenance.

(2) This section applies in respect of any committal order made under the *Protection of Children Ordinance*.

Transitional orders.

28. (1) At any time after an order for payment is made pursuant to section 27, the Director may apply to a justice for such variation of the order already made as the circumstances may warrant.

Variation of orders.

(2) Any parent may make application to a justice as provided in subsection (1) for an order varying the amount payable by him under any order, or revoking the order, or varying or suspending in whole or in part the operation of the same insofar as it applies to him.

Duration
of order.

29. Where an order is made for any payment for the maintenance and supervision of a child, the period for which the payment shall be made commences at the time the child was apprehended, irrespective of the date of the order for protective care or the date of the order for payment, and continues so long as the child remains in the protective care of the Director and continues to be an expense to the Director.

Notice.

30. Where a justice makes an order directing payment to the Director of the cost of maintaining and supervising a child committed to the protective care of the Director, the Director shall forthwith send by registered mail a copy of the order to the parent chargeable under the order with the maintenance of the child.

Enforce-
ment.

31. An order made against a parent under section 27 or 28 may be enforced in the same manner as an order made under the *Maintenance Ordinance* or under this Ordinance.

APPEALS.

Appeal.

32. (1) The Director, or any person aggrieved, may appeal to the Court against any order made under this Part or a refusal to make an order.

Notice.

(2) Not less than ten days notice of the hearing of the appeal shall be given to the Director and to every person to whom the child may be returned or that may be made liable for any payment upon the appeal being allowed or refused unless the Court otherwise orders.

Powers of
Court.

(3) Upon hearing an appeal, the Court may affirm, reverse, or modify the order appealed against, and make such other order as seems proper to the Court.

GENERAL.

Urgent
medical
attention.

33. (1) Where the Director is of the opinion that

- (a) a child is in need of protection by reason of any refusal described in paragraph (1) of section 6, and
- (b) it is necessary in order to preserve the life of the child, that the child be provided immediately with particular medical, surgical or other remedial care or treatment,

the Director may direct that the child be apprehended under subsection (1) of section 7, if the child has not already been apprehended, and brought before a justice for committal to the Director pursuant to paragraph (c) of subsection (2) of section 11 and thereafter direct that the child be provided immediately with the care or treatment.

(2) No action shall lie against any person for performing or assisting in the performance of a surgical operation upon any child or for providing medical or other remedial care or treatment to any child, for the benefit of that child if Protection.

- (a) he has acted in accordance with a direction made by the Director under subsection (1) in respect of the child, and
- (b) the operation is performed or the medical or other remedial care or treatment is administered with reasonable care and skill.

34. (1) Where it appears to the Commissioner that Investiga-
tion of
facility.

- (a) the management of any facility providing care for children is not such as to be in the best interests of the children in its care and custody, or
- (b) the facility in the public interest, should be made the subject of public investigation,

he may appoint a person or persons to enquire into and report to him upon the management and conduct of the facility, and may direct the manner of conducting such enquiry.

(2) The person or persons appointed under subsection (1) shall in conducting such enquiry have the powers and privileges of a judge of the Territorial Court.

35. Where a court has committed a child to the charge of the Director by an order made under the provisions of section 20(1)(h) of the *Juvenile Delinquents Act (Canada)*, such child shall be deemed to have been committed to the care and custody of the Director in accordance with the provisions of subparagraph (c) of subsection (2) of section 11, and the provisions of section 17 shall apply *mutatis mutandis*.

Child to be separate from adults. **36.** No child who is held or brought before a justice for enquiry under this Ordinance shall be placed or allowed to remain with any adult prisoner in any lock-up or police cell used for ordinary criminals or persons charged with crime.

Payments on behalf of child. **37.** Any family allowance paid to the Director on behalf of any child in the care and custody of the Director shall not be public money within the meaning of the *Financial Administration Ordinance*.

Habeas corpus. **38.** (1) Where a parent of a child applies to the Court for an order for the production of a child, and the Court finds that the parent has

- (a) abandoned or deserted the child;
- (b) allowed the child to be brought up by
 - (i) another person at the expense of that person, or
 - (ii) in a public or private boarding home for such time and under such circumstances as to satisfy the Court that the parent has been unmindful of his duties; or
- (c) otherwise so conducted himself that the Court should refuse to enforce his rights to the custody of the child;

the Court may, in its discretion, decline to issue the writ or make the order unless satisfied that it would tend to the advantage and benefit of the child to do so.

(2) Where the Court issues a writ or makes an order for the production of the child, the Court, in its discretion, may further order that the child be returned to his parents.

Proof of age. **39.** Where a person is charged with an offence under this Part in respect of a child who is alleged to be under any specified age and the child appears to the justice to be under that age, the child shall, for the purposes of the Ordinance, be deemed to be under that age unless the contrary is proved.

Files to be confidential. **40.** (1) No file, document or paper kept by the Director or in any other place, that

- (a) deals with the personal history or record of a child or adult, and
- (b) has come into existence through any proceedings under or pursuant to this Ordinance

shall without the written consent of the Director be disclosed to any person other than the Commissioner or a solicitor acting on behalf of the Commissioner or the Director.

(2) No person appointed under section 3 or 4 shall disclose or be compelled to disclose any information obtained by him in the course of the performance of his duties under this Ordinance

Disclosure privileged.

- (a) except at a trial, hearing or proceedings under Parts I, II, or III of this Ordinance, or
- (b) in any other case, except with the consent of the Commissioner, or the order of a Judge.

PART III

CHILDREN BORN OUT OF WEDLOCK.

INTERPRETATION.

41. In this Part,
- (a) "child" means a child of an unmarried woman and includes a child *en ventre sa mere*; Definitions
"Child"
 - (b) "contributor" means a man against whom a contribution order has been made under this Part; "Contributor"
 - (c) "contribution proceedings" means proceedings instituted under this Part against a man; "Contribution Proceedings"
 - (d) "unmarried woman" means a woman who, at the date a child was conceived by her "Unmarried woman"
 - (i) was unmarried; or
 - (ii) widowed or divorced at least three months prior to that date; or
 - (iii) was a married woman who, for a period of at least three months immediately prior to that date, had been living separate and apart from her husband;

and who has continued to be unmarried or to live apart from her husband up to the date of the birth of her child or the date of proceedings taken under this Part, whichever first occurs.

CONTRIBUTION PROCEEDINGS.

Institution of proceedings to obtain contribution order.

42. (1) Subject to subsection (2) the Director, an unmarried woman, the guardian of the unmarried woman or a guardian of the child may institute proceedings to obtain a contribution order against any man in respect of a child or in respect of a pregnancy of the unmarried woman by filing an affidavit in the prescribed form with a justice.

(2) No proceeding may be instituted under subsection (1) during the pregnancy of the unmarried woman unless the affidavit filed thereunder is accompanied by a certificate of a medical practitioner stating that the unmarried woman is pregnant.

Summons.

43. (1) Subject to subsection (2), upon the filing of an affidavit described in section 42, the justice shall forthwith issue a summons for service on the man named in the affidavit requiring the attendance of the man before him.

Warrant.

(2) Where

- (a) service of the summons is proved and the man does not appear before the justice;
- (b) it appears to the justice that the summons cannot be served because the man is avoiding service; or
- (c) it appears to the justice that the man is about to abscond;

the justice may issue a warrant for the arrest of the man.

Copy to Director

(3) Upon the issue of a summons or warrant the justice shall forthwith transmit a copy thereof to the Director.

Service of Summons.

44. (1) Except as provided in subsection (2), a summons issued pursuant to section 43 shall be served personally on the man to whom it is directed, and, if that man cannot conveniently be found, the summons may be

- (a) left for him at his last or usual place of abode with some person apparently resident therein who appears to be at least sixteen years of age, or
- (b) sent to him by registered mail at his last or usual place of abode or his postal address.

(2) Where a man is a member of the Canadian forces or of any visiting forces, a summons issued pursuant to section 43 may be served on his commanding officer.

Service where man is a member of the forces.

(3) Service out of the Territory of a summons issued pursuant to section 43 may be made without an order.

Service out of the Territory.

45. A summons issued pursuant to section 43 shall be served

Length of notice of hearing.

- (a) at least seven days before the hearing, or
- (b) where the service is made out of the Territory at least thirty days before the hearing.

46. (1) Where a man is brought before a justice on a warrant issued under section 43, the justice may require him to

Recognizance.

- (a) enter into a recognizance with sufficient sureties in such manner as the justice directs conditioned for his appearance at the hearing, or
- (b) enter into his own recognizance and deposit with the justice a sum of money sufficient, in the opinion of the justice to ensure his appearance at the hearing.

(2) Where

- (a) the man does not comply with subsection (1) when required to do so by a justice, or
- (b) the justice is satisfied that it is probable that the man will not appear at the hearing voluntarily,

Penalty for breach.

the justice may commit the man to a prison there to be kept until he does what is required of him or until the hearing.

47. (1) No contribution order shall be made under this Part against a man upon the evidence of the unmarried

Corroboration of evidence of unmarried woman.

woman in respect of whose pregnancy or child the proceedings have been instituted unless the unmarried woman or someone on her behalf adduces evidence as to the paternity of the child and such evidence is corroborated by

- (a) evidence that the man made financial contribution towards the maintenance of the child;
- (b) evidence that the man has made an agreement to pay any expenses arising out of her pregnancy, or the birth, maintenance, education or death of the child;
- (c) evidence that the man has had sexual intercourse with her within the period during which the child could have been conceived;
- (d) evidence as to an acknowledgement of paternity by the man; or
- (e) some other material evidence satisfactory to the justice that implicates the man.

Negative evidence.

(2) No contribution order shall be made under this Part where it is proved to the satisfaction of the justice that the man could not be the father of the child.

CONTRIBUTION ORDER.

Contribution Order.

48. (1) Where a justice, upon the appearance before him of a man either in person or by counsel and upon considering the evidence adduced before him, is satisfied that such man probably is

- (a) the father of the child, or
- (b) the cause of the pregnancy of the unmarried woman, in respect of which the contribution proceedings have been instituted,

he may, having regard to the number of possible fathers or men who possibly caused the pregnancy, make an order requiring the man to pay to the mother, the Director or to such other person as the court deems proper, any reasonable expenses for

- (i) the maintenance and care, medical and otherwise, of the unmarried woman during her pregnancy, and at the birth of the child or termination of the pregnancy;

- (ii) burial of the unmarried woman if she dies as a consequence of her pregnancy;
- (iii) burial of the child if the child dies;
- (iv) the birth and maintenance of the child up to the date of the order; and

such sum of money towards the maintenance and education of the child as the justice considers proper to be paid in a lump sum, or weekly or monthly for such period as the justice considers proper.

(2) Where a child in respect of whom contribution proceedings have been commenced is not in the care and custody of his mother, the justice may, in making an order under subsection (1), require the mother of the child to contribute such sum of money towards the maintenance and education of the child as the justice considers proper, to be paid in a lump sum, or weekly or monthly for such period as the justice considers proper.

Contribution
of mother.

(3) In estimating the amount of the periodic payments or the lump sum to be paid by the contributor under subsection (1) the justice shall

Estimate of
amount of
payments.

- (a) fix such payments or lump sum as will enable the child to maintain a reasonable standard of life having regard to what the child would have enjoyed had he been born in lawful wedlock, and
- (b) take into consideration the ability of the contributor to provide such payments or lump sum and the ability of the mother of the child to assist in the maintenance of the child.

(4) Any lump sum ordered to be paid under this section shall be paid within six months from the date of making the contribution order.

Payment of
lump sum.

(5) No periodic payments ordered to be paid under this section in respect of the maintenance and education of a child are required to be paid.

Payment of
periodic
payments.

- (a) after the child dies or is legally adopted;
- (b) during any period that the mother of the child is married and living with her husband and the child is living with them; or

(c) after the age of eighteen years unless the child is mentally or physically handicapped so as to require continued maintenance beyond that age.

(6) A contribution order may be made by a magistrate but may not be made by a justice who is not a magistrate.

(7) A contribution order may be enforced in the same manner as an order made under the *Maintenance Ordinance* or under this Ordinance.

Solicitors fees.

49. In contribution proceedings, the justice may fix any solicitors fees and may

(a) order the contributor to pay the costs incurred in obtaining the contribution order, whether such costs were incurred by the mother, the Director or any other person, or

(b) where no contribution order is made against the man, the court may, if it is satisfied that the proceedings were instituted frivolously or improperly, order the person who instituted the contribution proceedings, to pay the costs of the man in the proceedings.

Joint or several proceedings.

50. (1) Where it is sought to obtain contribution from more than one man in respect of a child or a pregnancy, contribution proceedings may be instituted under subsection (1) of section 42 jointly or severally against each such man.

Prior proceedings.

(2) It is no defence to contribution proceedings in respect of a child or pregnancy that a contribution order under this Part has been made against some other man in respect of the same child or pregnancy.

Notice of proceedings.

(3) Where contribution proceedings are instituted against a man subsequent to the making of a contribution order against some other man in respect of the same child or pregnancy, notice of the hearing shall be served upon that other man in the same manner as if a summons was being served upon him under section 43, and he shall be entitled to be heard in person or by agent or by counsel.

(4) Where an order of contribution is made in respect of more than one man the contributors shall be jointly and severally liable to pay the whole of the amount of the order, but as between themselves they shall be liable to make contribution to and indemnify each other in such proportions as the justice may order or in default of such order in equal shares in proportion to their number.

Contribution order.

51. (1) Where contribution proceedings are instituted against a man under subsection (1) of section 42 and the man fails to appear before the justice either in person or by agent or counsel, the justice may, upon proof of service of the summons on the man and upon considering the evidence adduced before him, if he is satisfied that the man probably is

Order on non-appearance.

- (a) the father of the child, or
- (b) the cause of the pregnancy of the unmarried woman, in respect of which the contribution proceedings have been instituted,

make an order requiring him to pay any amount that a justice can order to be paid under section 48.

(2) Where the justice makes an order under subsection (1) he

Terms of order.

- (a) shall make it on the same terms and conditions as if he were making an order under section 48, and
- (b) may order the mother of the child to pay any amount that she could be ordered to pay under section 48.

(3) Upon the application of a man against whom a contribution order has been made under subsection (1), the justice may, in his discretion, direct a rehearing and rescind, confirm or vary the order.

Rehearing.

(4) No contribution order made under this section is invalid by reason only that there was a defect in the substance or form of any summons or warrant, but the justice may, upon an application made pursuant to subsection (3), rescind the contribution order if he is satisfied that the man against whom the contribution order was made was so misled by the defect that he did not know of the hearing.

Defect in summons or warrant.

Time for
commence-
ment of
proceedings.

52. No contribution order shall be made against a man in respect of a child or a pregnancy of an unmarried woman unless proceedings to obtain such an order are instituted against such man within the following periods of limitation:

- (a) where the man is present in the Territory at the expiration of two years from the birth of the child or termination of the pregnancy — two years from the birth of the child or termination of the pregnancy;
- (b) where the man is absent from the Territory at the expiration of two years from the birth of the child or termination of the pregnancy — within two years from the date on which he returns to the Territory;
- (c) where the man does any act that could reasonably be regarded as an acknowledgement of paternity of the child — within two years from his doing such act;
- (d) where the man is absent from the Territory at the expiration of the period set out in paragraph (c) — within two years from the date on which he returns to the Territory;
- (e) where the man and the mother of the child have cohabited as man and wife — within two years from the cessation of such cohabitation.

53. (1) A justice may rescind a contribution order made under this Part or may from time to time vary the order as he sees fit upon the application of the Director or any person named in the order upon being satisfied that since the making of the contribution order or the latest subsequent order varying it

- (a) there has been a material alteration in respect of the means of the mother or contributor or the child, the needs of the child or the cost of living;
- (b) the contributor is, owing to the terms of the order, unable to provide proper subsistence for his dependants; or

(c) there has been some other material change in the circumstances of the case.

(2) Any order varied under subsection (1) may be enforced in the same manner as the original order. Enforcement of order.

APPEALS.

54. Any party to contribution proceedings before a justice may appeal to the Court from an order made by the justice in those proceedings and the Court may, in its discretion, make an order staying proceedings under the order pending the hearing of the appeal, but service of a notice of appeal does not operate as a stay of proceedings unless the Court has made an order staying the proceedings.

55. (1) Any party aggrieved by an adjudication or order made by a justice under this Part may appeal to the Court and the Court shall have full discretion and power to receive further evidence upon questions of fact, such evidence to be either by oral examination before him, by affidavit or by deposition taken before an examiner or commissioner, or to direct and hold a new hearing before him, and he shall have power to give any judgment and make any order which ought to have been made and to make such further order or other order as the case may require or, by order, directed to the justice, require him to make any order which the circumstances of the case require. Procedure.

(2) Notice of appeal shall be served upon Notice.

- (a) the justice who made the order;
- (b) the respondent; and
- (c) the Director.

(3) A certified copy of any order made by the Court shall be forthwith forwarded to the Director by the Clerk. Order sent to Director.

(4) The order or decision of the Court upon such appeal shall not be subject to further appeal except on a matter of law. No further appeal.

56. (1) Unless the justice otherwise directs, any money payable pursuant to a contribution order made under this Part shall be paid to the Director. Payment to Director.

Application
of moneys.

(2) Moneys received by the Director from the father or pursuant to a contribution order shall be held in a special trust account, and after payment of expenses and costs for which the moneys are received, any balance shall be paid in reasonable monthly sums, in the discretion of the Director, to the person or institution having custody of the child towards the maintenance of the child or towards the expenses of the funeral of the child if the child dies.

Balance of
moneys.

(3) Where a child is legally adopted, or the mother marries and the child is in her custody, any balance of moneys held by the Director for the benefit of the child under this section shall be held in trust for the child, returned to the contributor thereof, or otherwise disposed of as the Commissioner may direct.

Idem.

(4) Where a child dies, any balance of moneys held by the Director for the benefit of the child shall be applied towards the funeral expenses of the child, returned to the contributor thereof or otherwise disposed of as the Commissioner may direct.

PENALTY.

Default.

57. (1) Upon default being made in any payment directed to be made by a contributor under any contribution order made under this Part, any of the persons described in section 42 may apply to a justice for an order of committal, and the justice shall have the power upon such application to summon the contributor to attend before him or to issue a warrant to arrest and bring the contributor before him to show cause why the contributor should not be committed to prison for non-compliance with the order.

Order of
committal.

(2) Where

- (a) it is proved to the satisfaction of the justice that the contributor is concealing himself to avoid service of a summons issued under subsection (1) or is avoiding arrest;
- (b) the contributor fails to attend in obedience to a summons issued under subsection (1);
or
- (c) the contributor attends or is brought before the justice but fails to satisfy the justice that he had reasonable excuse for not complying with the order;

the justice may order the committal of the contributor to prison for a period not exceeding three months.

(3) No imprisonment under this section shall extinguish payments ordered to be made under this Part. Payment not extinguished.

AGREEMENTS.

58. (1) A man may enter into an agreement with the Director, or the Director and an unmarried woman, providing for the payment to the Director of any sums of money for expenses arising out of a pregnancy of an unmarried woman or the birth, maintenance, education or death of a child, in such amount as the Director considers reasonable. Agreement.

(2) Notwithstanding anything in this Ordinance, where a man has entered into an agreement in respect of a child in accordance with subsection (1), no contribution proceedings in respect of the child shall be instituted or continued against him while he is not in default in carrying out the terms of the agreement. Proceedings stayed.

(3) Notwithstanding section 52, where at any time a man fails in whole or in part to carry out the terms of an agreement in respect of a child made in accordance with subsection (1), the Director may institute or continue contribution proceedings against him in respect of the child within two years of such default or if the man is absent from the Territory at the time of such default, within two years of his return to the Territory. Default.

(4) In any contribution proceedings instituted under subsection (3) the agreement shall be *prima facie* evidence that the man is the father of the child in respect of whom the agreement was made. Agreement prima facie proof of paternity.

NOTIFICATION AND INVESTIGATION.

59. The Registrar General of Vital Statistics shall, within thirty days after registering under the *Vital Statistics Ordinance* the birth of a child born out of wedlock, send to the Director a certificate of the registration of the birth of the child. Notification by registrar.

60. Every person in charge of a hospital or other institution that has received a woman for care during Notification by institution.

pregnancy who appears to be an unmarried woman shall, within three days after her admittance, report her admittance to the Director.

Duty of Director.

61. (1) Upon an application to him by an unmarried woman, or upon receiving notice that an unmarried woman is pregnant or is the mother of a child, the Director may

- (a) cause a full investigation to be made in respect of the child, and
- (b) institute any proceedings and do all things that he is permitted to do under this Ordinance as seem to him advisable in the interests of the child or the unmarried woman.

(2) Nothing in subsection (1) requires the Director to interfere with the care and maintenance of a child where the child

- (a) has been adopted in accordance with Part IV;
- (b) is being cared for voluntarily by a person whom the Director considers suitable to have charge of the child; or
- (c) has been legitimated.

GENERAL.

Abatement of proceedings.

62. Where an unmarried woman marries or a married woman resumes cohabitation with her husband at any time subsequent to the date of conception

- (a) contribution proceedings in respect of the pregnancy of the woman or birth of her child shall be stayed or abated forever, and
- (b) any right to commence such contribution proceedings shall be terminated.

Estate bound.

63. Subject to section 54 a contribution order made under this Part, and an agreement made under section 58 binds the estate of a man after his death and moneys payable under the order or agreement

- (a) are a debt due from his estate, and
- (b) are recoverable in an action instituted in the Court by the Director or other person to whom they are payable.

64. No action shall be instituted under section 63 except with the leave of a judge who shall, before granting leave, direct that notice be given to the widow and any adult legitimate children of the man and to all other persons interested in the estate. Leave of Judge.

65. Where, Variation.
 (a) in any proceedings instituted under section 63, or
 (b) upon any application made under section 53,

it appears to a judge or a justice that the terms of the order or agreement cannot be carried out without depriving the dependants of the man of necessary maintenance the judge or the justice may, having regard to all the circumstances, vary the order or agreement so as to make equitable provision for the dependants of the man and the child.

PART IV

ADOPTION.

INTERPRETATION.

66. In this Part Definition
 "child" means a person under the age of twenty-one years. "Child"

ADOPTION PROCEEDINGS.

67. (1) An application for an adoption order may be made to the Court by Application.

- (a) an unmarried person twenty-one years of age or over, or
- (b) a husband and wife jointly.

(2) A judge may, where by reason of blood relationship or other special circumstances he considers it to be in the best interests of a person sought to be adopted, permit an application for an adoption order to be made in any case not otherwise provided for in this Ordinance.

(3) Where an application is made for an adoption order in respect of a person over the age of twenty-one years the provisions of this Part shall apply *mutatis mutandis* unless dispensed with by special order of the Court.

Petition. **68.** (1) An application for an adoption order shall be made by a petition filed in the Court.

(2) The Clerk of the Court shall forthwith forward to the Director a copy of an application for an adoption order.

(3) In the interests of the child, the Director shall cause an investigation to be made of each application for an adoption order and prepare a report of the investigation.

(4) The report of the investigation shall be presented to the judge at the time of the hearing of the application.

Consent to adoption order. **69.** (1) Every application for an adoption order shall be accompanied by the consent in the prescribed form of every person who

Parent. (a) in the case of a child born in wedlock is a parent, adoptive parent or guardian of the child or has lawful care and custody of the child, and

Mother and father. (b) where a child is born out of wedlock, is the mother of the child or where the child resides with and is maintained by his father, is the father of the child.

Age of parent immaterial. (2) The mother or father of a child may consent to the adoption of the child notwithstanding that the mother or father is under the age of twenty-one years.

70. Every application for an adoption order shall be accompanied by the consent in the prescribed form of

Child. (a) the child, where the child is over the age of twelve years, and

Spouse. (b) the spouse of the child, where the child is married.

Director's consent. **71.** (1) Where a child has been permanently committed to the care and custody of the Director an application for an adoption order shall be accompanied by the consent in the prescribed form of the Director.

(2) Notwithstanding any other provision of this Ordinance, where the consent of the Director is required pur-

suant to subsection (1), no other consent to the adoption is required.

72. (1) Where any consents required by this Ordinance have not been given, the judge may upon application therefor make an order dispensing with the requirement of such consents, if having regard to all the circumstances of the case he is satisfied that dispensing with such consent is in the best interest of the child. Dispensing with consent.

(2) Except where otherwise ordered by the Court fourteen days notice of an application for an order under subsection (1) shall be given to every person whose consent may be dispensed with by the order. Notice.

73. No person who has given his consent to adoption, other than the child to be adopted, may revoke his consent unless it is shown to the satisfaction of the Court that such revocation is in the best interests of the child. Revocation of consent.

74. Where the consent of the mother of a child to adoption of her child is required, no order for the adoption of her child shall be made unless the consent of the mother is given after the expiration of ten days from the date of the birth of her child. Saving.

75. (1) A consent required under sections 69 or 70 shall be supported by the affidavit of the person consenting and of the witness to the consent and shall include a statement that the effect of the consent and of adoption was fully explained to the person consenting and the affidavit of the person consenting shall include a statement that he signed the consent freely and voluntarily and understood the effect of the consent and of the adoption. Affidavit of support.

(2) The requirements of subsection (1) do not apply to the consent of the Director. Director excused.

(3) A consent executed in any province of Canada, or any other country or part thereof according to the law of such place, has the same effect in the Territory as a consent under this Ordinance. Extra-territorial consents.

(4) An affidavit supporting a consent to an adoption sworn outside the Territory before a commissioner for oaths is as good and sufficient as if it had been sworn before a notary public.

Residence. **76.** (1) An order of adoption shall not be made unless the judge is satisfied with the propriety of the adoption having regard to the welfare and interests of the child, and

- (a) that the child has lived with the applicant for at least six months immediately prior to the day of the petition and that during that period the conduct of the petitioner and the conditions under which the child has lived have been such as in his opinion justify the making of the order, or
- (b) that the applicant is a fit and proper person to have the care and custody of the child, and that it appears desirable and in the best interests of the child or for other good and sufficient reasons that the six months period of residence or any portion thereof be dispensed with.

(2) Where the Director certifies that the applicant is a fit and proper person to have the care and custody of the child and that it is desirable and in the best interests of the child, the six months period of residence required by subsection (1) may be dispensed with.

State application. **77.** Where any application for an adoption order together with any required supporting material is not presented to the Court for consideration by the judge within one year from the signing of the application by the applicant, it shall not be proceeded with, but another application may be made in place of it.

Consideration of application by judge. **78.** In considering an application for an adoption order the judge may require

- (a) the attendance of the applicant and of any other person thought to have knowledge of any pertinent fact, and
- (b) the production of all relevant documents.

Adoption order. **79.** Where the judge is satisfied that

- (a) the requirements of this Part have been satisfied, and
- (b) the order will be in the best interests of the child

he may make an order for the adoption of the child in respect of whom the application has been made.

80. (1) The adopted child shall assume the surname of Surname. the adopting parent unless the adoption order provides otherwise.

(2) In making an adoption order, the judge may, in Given name. his discretion, change the christian or given name or names as the adopting parent desires, and thereafter the adopted child is entitled to and is to be known by the name or names so given.

81. Where an adopted child was born out of wedlock, Child out of wedlock. that fact shall not appear in the adoption order.

82. (1) The papers used upon an application for an adoption order shall be sealed and filed in the office of the Court by the clerk of the Court and shall not be open for inspection except upon an order of the Court or the written direction of the Commissioner. Papers confidential.

(2) Where an adoption order has been made, all papers and and other material relating to the adoption which are held by the Director shall be retained by the Director in a sealed file and shall not be subject to inspection except with the consent of the Director or the Commissioner.

83. Within ten days after the making of an adoption Notice. order in respect of a child, the clerk of the Court shall transmit

- (a) one certified copy to the Director, and
- (b) one certified copy or where the adopted child was born outside the Territory, two certified copies of the order to the Registrar General of Vital Statistics, together with such information as the Registrar General of Vital Statistics requires to enable him to carry out the requirements of the *Vital Statistics Ordinance*.

STATUS OF ADOPTED CHILD.

84. (1) For all purposes, as of the date of the making of an adoption order

(a) the adopted child becomes the child of the adopting parent and the adopting parent becomes the parent of the adopted child, and

(b) the adopted child ceases to be the child of the person who was his parent before the adoption order was made and that person ceases to be the parent of the adopted child, as if the adopted child had been born in lawful wedlock to the adopting parent.

(2) The relationship to one another of all persons whether the adopted child, the adopting parent, the kindred of the adopting parent, the parent before the adoption order was made, the kindred of that former parent or any other person shall, for all purposes, be determined in accordance with subsection (1).

(3) This section applies and shall be deemed to have always applied with respect to any adoption made under any legislation heretofore in force, but not so as to affect any interest in property or right that has vested before the commencement of this section.

85. In any will or other document, whether heretofore or hereafter made, unless the contrary is expressed, a reference to a person or group or class of persons described in terms of relationship by blood or marriage to another person shall be deemed to refer to or to include, as the case may be, a person who comes within the description as a result of his own adoption or the adoption of another person.

86. An adoption effected according to the law of any province or territory of Canada or of any other country, or part thereof, before or after the commencement of this section, has the same effect in this Territory as an adoption under this Ordinance.

LIMITATION OF ACTION.

Limitation. **87.** (1) No action or proceeding to set aside an adoption order shall be commenced after the expiration of one year from the day of the order, except on the ground that the order was procured by fraud and then it may only be set aside if it is in the interests of the adopted child to do so.

(2) Where an adoption order is set aside, the child ceases from the date of the setting aside of the order to be the child of the adopting parents and the adopting parent ceases to be the parent of the child from the same date, and the relationship to one another of the child and all persons is re-established as it was immediately before the adoption order was made.

APPEALS.

88. An appeal lies to the Court of Appeal from an Appeal order made under this Part.

89. (1) Any person receiving a child into his home for the purposes of adoption other than through the Director, shall, within thirty days of receiving the child, notify the Director in the prescribed form. Notification of placement.

(2) Every person who fails to comply with this section is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars. Offence.

90. (1) Except as provided by subsection (3), every person who gives or receives or agrees to give or receive any payment or reward either directly or indirectly Payment in respect of adoption.

(a) in consideration of the adoption of a child under this Part, or

(b) in order to procure a child for the purposes of adoption

is guilty of an offence and is liable on summary conviction to a fine of not more than \$500.00 or to imprisonment for a term of not more than six months or to both fine and imprisonment.

(2) No prosecution for an offence under subsection (1) shall be commenced without the leave in writing of the Commissioner. Leave

(3) The Director may enter into an agreement with any person providing for the payment to such person of money as expenses or maintenance of an adopted child. Agreement by Director

PART V

GENERAL PROVISIONS.

JURISDICTION.

Jurisdiction. **91.** The powers duties and functions conferred by this Ordinance upon a judge or justice in the Territory are exercisable notwithstanding that

(a) any party to the proceedings or any child to whom the proceedings relate is not domiciled in the Territory, and

(b) any child to whom the proceedings relate was not born in the Territory.

Effect of order. **92.** An order made by a justice under this Ordinance may be filed in the Court and, except where the judge has made an order staying proceedings under section 54, has the same effect, and all proceedings may be taken thereon, as if the order were an order obtained in the Court.

Justice unable to act. **93.** Where a justice with whom an affidavit, petition or other document instituting proceedings under this Ordinance has been filed is absent, or unable to act, or requests the substitution for him of another justice, another justice may act in his stead.

PROCEDURE.

Hearings to be private. **94.** (1) All proceedings under this Ordinance shall be heard by the judge or justice in private and no persons other than the officers of the Court, the parties, the parents of the child in respect of whom the proceedings are being taken, their counsel and such other persons as the judge or justice in his discretion expressly permits, shall be present at the hearing.

Child may be excluded. (2) Except where it is necessary for the child in respect of whom a hearing is being held under this Ordinance to be present at the hearing in order to be identified or to give evidence, the judge or justice may exclude him from the room in which the hearing is being held.

Other premises. (3) Where a child is brought before a justice during any proceedings instituted under this Ordinance the justice

shall hold the hearing where practicable in premises other than the ordinary police court premises.

REGULATIONS.

- 95.** The Commissioner may make regulations Regulations
- (a) governing the duties of the Director and any other official appointed under this Ordinance;
 - (b) prescribing rules under which applications under this Ordinance are to be made and dealing generally with all matters of procedure under this Ordinance;
 - (c) fixing fees, costs, charges and expenses payable on proceedings under this Ordinance and for dispensing with the payment of such fees, costs, charges and expenses where owing to lack of means or for any other reason the judge considers such action advisable;
 - (d) requiring and regulating the records to be kept and the reports to be made to the Commissioner;
 - (e) prescribing forms and providing for their use; and
 - (f) respecting any matter he deems necessary or advisable to carry out effectively the intent and purpose of this Ordinance.
- 96.** The following Ordinances are repealed: Repeal
- (a) the *Adoption Ordinance*;
 - (b) the *Illegitimate Children Maintenance Ordinance*; and
 - (c) the *Protection of Children Ordinance*.

CHAPTER 3

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE TO PROVIDE FOR GOVERNMENT
CONTROL AND SALE OF ALCOHOLIC LIQUORS*(Assented to January 22, 1970)*

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

SHORT TITLE.

- Short Title. **1.** This Ordinance may be cited as the *Liquor Ordinance*.

INTERPRETATION.

- Definitions **2.** (1) In this Ordinance,
- "Analyst" (a) "analyst" means an analyst designated for the purposes of the *Food and Drugs Act* or an analyst employed by the Government of Canada or a government of a province or territory and having authority to make analysis for public purposes;
- "Bedroom" (b) "bedroom" means a furnished and serviced bedroom regularly available for the accommodation of the travelling public;
- "Beer" (c) "beer" means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, hops, or any similar product in drinkable water;
- "Board" (d) "Board" means the Yukon Liquor Board;
- "Director" (e) "Director" means the Director of Liquor Control;
- "Inspector" (f) "inspector" means a person appointed as an inspector under this Ordinance;
- "Licence" (g) "Licence" means a licence issued under this Ordinance;
- "Licensed Premises" (h) "licensed premises" means premises in respect of which a licence has been granted and includes any building or other place appertaining to such premises;

- (i) "Licensee" means a person named as a licensee in a licence; "Licensee"
- (j) "liquor" means "Liquor"
- (i) alcohol and alcoholic, spirituous, fermented malt or other intoxicating liquor, or a combination or mixture thereof;
 - (ii) a mixed drink part of which is fermented spirituous, vinous, or otherwise intoxicating; and
 - (iii) any other intoxicating drink, drinkable liquid, preparation or mixture that is fit for human consumption;
- (k) "package" means any container, bottle, vessel or other receptacle used for holding liquor; "package"
- (l) "public place" means "public place"
- (i) a place or building to which the public has access;
 - (ii) a place of public resort; and
 - (iii) any conveyance in a public place;
- (m) "residence" means "residence"
- (i) a building or part of a building that is actually and *bona fide* occupied and used by the owner, lessee or tenant solely as a private dwelling together with the lands and buildings appurtenant thereto that in fact are normally and reasonably used as part of the living accommodation;
 - (ii) a private guest room in a hotel or motel that is actually and *bona fide* occupied as such by a guest of the hotel or motel;
 - (iii) a camper unit, trailer or tent that is actually and *bona fide* occupied by the owner, lessee or tenant as a private dwelling together with the lands immediately appurtenant thereto that in fact are reasonably used as part of the living accommodation; or

- (iv) a vessel that is actually and *bona fide* used by the owner, lessee or tenant as a private dwelling;
- "Sale" (n) "sale" in relation to liquor includes exchange, barter or traffic and the selling, supplying or distribution by any means of liquor
- (i) by an partnership or by any club whether incorporated or unincorporated, or
- (ii) to any member of such partnership or club;
- "Spirits" (o) "spirits" means any beverage that contains alcohol obtained by distillation, mixed with drinkable water and other substances in solution and includes brandy, rum, whisky, gin and vodka;
- "Vehicle" (p) "vehicle" means any means of transportation by land, water or air and includes any motor car, automobile, truck, tractor, aeroplane, vessel, boat, launch, canoe or any other thing used in any way for such transportation;
- "Wine" (q) "wine" means any liquor obtained by the fermentation of the natural sugar contents of fruit, including grapes, apples, berries or any other agricultural product containing sugar including honey and milk;
- Alcohol content. (2) For the purpose of paragraph (i) of subsection (1), any liquor that contains more than two and one-half per cent by volume at 60 degrees Fahrenheit of absolute alcohol shall be deemed to be intoxicating.

YUKON LIQUOR BOARD.

Yukon
Liquor
Board.

3. (1) There shall be a board to be known as the Yukon Liquor Board consisting of three members appointed by the Commissioner to hold office during pleasure.

Acting
Member.

(2) In the event of the absence or incapacity of a member of the Board, the Commissioner may appoint a person to take the place of that member for such period of time as he deems fit.

4. The Commissioner shall fix
- (a) the remuneration to be paid to the members of the Board, and
 - (b) travelling and living expenses to be paid to the members of the Board in connection with the performance of their duties when absent from their ordinary place of residence.
5. The Board shall choose a member from amongst their number to be the Chairman thereof.
6. (1) No member shall be directly or indirectly interested or engaged in any business or undertaking dealing in liquor in the Territory
- (a) as owner, part owner, partner, member of a syndicate, shareholder, agent or employee, or
 - (b) for his own benefit or in any capacity for some other person.
- (2) No member of the Board and no person appointed pursuant to Section 8 shall solicit or receive directly or indirectly any commission, remuneration or gift of any kind from a person or corporation having sold, selling or offering liquor for sale to the Director pursuant to this Ordinance, or from any applicant for a licence.

Remuneration.

Chairman of the Board.

Dealing in liquor by Board employees prohibited.

Acceptance of remuneration prohibited.

POWERS OF COMMISSIONER.

7. The Commissioner may
- (a) establish and operate liquor stores and warehouses;
 - (b) fix the price at which the various classes, varieties and brands of liquor may be sold at liquor stores;
 - (c) prescribe the nature of seals to be used on packages of liquor purchased and kept for sale under this Ordinance;
 - (d) control the advertising of liquor; and
 - (e) issue licences to sell liquor under this Ordinance.

Appoint-
ment.

8. (1) The Commissioner may appoint
- (a) a Director of Liquor Control;
 - (b) such vendors as are necessary for the sale of liquor at liquor stores;
 - (c) such inspectors as are necessary for the enforcement of the provisions of this Ordinance; and
 - (d) such other persons as he deems necessary for the administration of this Ordinance.

Duties and
remunera-
tion

- (2) The Commissioner may prescribe the duties of the persons appointed under subsection (1) and fix their remuneration.

POWERS OF DIRECTOR.

Powers of
Director.

9. (1) The Director shall, under the direction of the Commissioner, administer this Ordinance and supervise the employees of the Department of Liquor Control.

- (2) Subject to the Commissioner, the Director may
- (a) determine the nature, form and capacity of the packages to be used for containing liquor kept for sale and sold under this Ordinance;
 - (b) determine the classes, varieties and brands of liquor to be kept for sale in liquor stores;
 - (c) purchase, have in his possession and under his control for sale and sell liquor;
 - (d) control the possession, sale, consumption, transportation and delivery of liquor in accordance with the provisions of this Ordinance;
 - (e) provide for the keeping in and delivery of liquor to or from any liquor store or warehouse established under this Ordinance, and procuring of all furniture, fixtures and supplies;
 - (f) fix the days and hours at which any liquor store shall be kept open for the sale of liquor;
 - (g) issue and distribute price lists showing the price fixed by the Commissioner to be paid for each class, variety or brand of liquor kept for sale in liquor stores; and

- (h) fix the days and hours where, and the manner, method and means by which liquor may be delivered or may be lawfully conveyed or carried and fix the charges and method of payment for delivery or sale of liquor.

DUTIES OF VENDOR.

10. (1) The sale of liquor at each liquor store shall be conducted by an employee to be called the vendor. Duties of vendor.

(2) The vendor, under the supervision of the Director, is responsible for the proper observance of this Ordinance and the regulations in so far as they relate to the conduct of the liquor store and the sale of liquor thereat.

GENERAL.

11. The whole amount of all monies derived from the sale of liquor by vendors shall, as directed by the Commissioner, be deposited to the credit of the Yukon Consolidated Revenue Fund in a special account designated as the "Liquor Account". Liquor Account.

12. (1) From and out of the Liquor Account there may be paid all expenses incurred in the administration of this Ordinance, including, without limiting the generality of the foregoing; Expenses of Administration.

- (a) the cost of all liquor purchased pursuant to this Ordinance;
- (b) the cost of transporting, storing and insuring such liquor;
- (c) the rental of lands, buildings or equipment required for storing liquor, liquor stores, offices and the cost of maintaining such lands, buildings or equipment, including insurance thereon;
- (d) the costs of administering offices and liquor stores, including the rental of equipment, furniture and supplies;
- (e) the remuneration of persons appointed under this Ordinance for the administration of this Ordinance and the payment of their necessary travelling and removal expenses;

- (f) the employer's share of unemployment insurance, workmen's compensation and other assessments in respect of the persons referred to in paragraph (e) ;
- (g) the printing of licences, permits, listings, notices and other stationery required for the purposes of this Ordinance; and
- (h) the payment of such expenses as the Commissioner deems necessary concerning any hearing held pursuant to this Ordinance.

(2) All payments made under this section shall be by cheque drawn on the Liquor Account signed by

- (a) the Territorial Treasurer, or in lieu thereof, by an officer appointed by the Commissioner, and
- (b) the Commissioner, or an officer appointed by him other than the officer appointed to act in lieu of the Territorial Treasurer.

Inspection
of records.

13. The premises, stocks and records under the control of the Director may be inspected monthly by an inspector designated by the Commissioner and they shall be at all times subject to examination by the Comptroller of the Treasury of Canada and the Auditor General of Canada.

Transfer of
monies to
Yukon
Consolidated
Revenue
Fund.

14. (1) The Territorial Treasurer shall, at the beginning of each quarter of the fiscal year commencing with the first day in July, transfer one-quarter of the estimated net annual revenue of the operation of liquor control from the Liquor Account to the General Account in the Yukon Consolidated Revenue Fund; but the total amount so transferred shall not exceed the net revenue of the fiscal year established by audit and the amount so established shall be adjusted to the amount to be transferred in the transfer covering the final quarter of each fiscal year.

(2) The Territorial Treasurer shall, forthwith after the end of each fiscal year, prepare a statement of operations of all liquor stores showing the profit or loss resulting therefrom and the net profit on the total operation of liquor control during the fiscal year.

(3) All transfers of funds from the Liquor Account to the General Account in the Yukon Consolidated Revenue Fund shall be at the disposal of the Commissioner.

LIQUOR SURCHARGE.

15. (1) There shall be levied on all liquor purchased at a liquor store, a surcharge as follows:

- (a) on each dozen bottles of beer, ten cents;
- (b) on each bottle of table wine, twenty cents and on each bottle of fortified wine, forty-five cents;
- (c) on each half-bottle of table wine, ten cents and on each half-bottle of fortified wine, twenty cents;
- (d) on each flask of spirits, twenty cents;
- (e) on each bottle of spirits, fifty cents;
- (f) and on each Imperial gallon of draught beer, ten cents.

(2) Once each month the Director shall give to the Territorial Treasurer a statement showing the type and number of bottles of liquor upon which surcharge was collected in respect of each liquor store during the next preceding month, and the Territorial Treasurer shall deposit the surcharge so collected to the credit of the Yukon Consolidated Revenue Fund.

16. (1) The Commissioner may by order for any cause that he deems sufficient suspend any licence issued under this Ordinance.

Suspension
of licence.

(2) A suspension of a licence ordered pursuant to subsection (1) shall be for a period of time not exceeding twelve months.

(3) Where a suspension is ordered pursuant to subsection (1) the suspension may be terminated before the expiration of the twelve-month period by a further order of the Commissioner.

17. (1) Where a licence is suspended pursuant to section 16, the Commissioner shall forthwith notify the licensee.

Notice.

(2) Notice of suspension of a licence shall be given in writing and signed by the Commissioner and served personally or sent by registered mail to the holder of the licence at the address stated therein, and the suspension takes effect on the day and hour specified by the Commissioner in the notice.

Appeal to Board.

(3) A licensee may appeal against the suspension of his licence by serving a Notice of Appeal on the Commissioner within thirty days of the date of the Notice of Suspension.

(4) On receipt of the Notice of Appeal, the Commissioner shall refer the matter to the Board for a recommendation and be bound by their recommendation.

Hearing.

(5) On receipt of a request by the Board from the Commissioner for a recommendation in accordance with this section, the Board shall forthwith enquire into the matter and shall, after hearing the licensee and the Director and any evidence which may be adduced before them, make a recommendation to the Commissioner.

Powers of Board.

(6) The Board may recommend that the suspension be continued, that the licence be reinstated either immediately or at a future date, or that the licence be reinstated or re-issued subject to conditions, or that the licence be cancelled.

(7) The Board shall give written reasons for their recommendation to the Commissioner and the licensee.

Counsel.

(8) The Commissioner and the licensee shall be entitled to be represented by agent or counsel.

Appeal to Court.

(9) Any party aggrieved by a recommendation of the Board may appeal to the Court.

LICENCES.

Oaths.

18. Every member of the Board and every official authorized by the Commissioner to issue licences under this Ordinance may administer any oath and take and receive any affidavit or declaration required under this Ordinance or the regulations.

Orders, notices, etc.

19. Written notices, orders, directions and recommendations of the Board may be signed by the Chairman

or other member of the Board or any person authorized to do so by the Chairman.

20. Every licence becomes effective and expires on the respective dates stated therein. Expiration of licence.

21. (1) Where a person receives notice of the suspension or cancellation of his licence he shall, if so ordered in the notice, forthwith deliver to the Director all liquor then in his possession or under his control. Delivery of forfeited liquor.

(2) Where the liquor delivered to the Director pursuant to subsection (1) is suitable for re-sale by the Director and has been lawfully acquired by the holder of the licence, the Director shall refund the cost of that liquor to the holder. Director shall purchase liquor.

(3) Any liquor delivered to the Director pursuant to subsection (1) that is not purchased by the Director shall be forfeited to the Commissioner to be destroyed or otherwise disposed of by the Director. Liquor to be destroyed.

22. Subject to the regulations, the Commissioner may, on application, issue to a person any of the following licences: Classes of Licences.

- (1) Tavern Licence
- (2) Cocktail Lounge Licence
- (3) Dining-room Licence
- (4) Restaurant Licence
- (5) Canteen Licence
- (6) Train, Ship or Aircraft Licence
- (7) Off Licence
- (8) Special Licence
- (9) Club Beer Licence
- (10) Club General Licence
- (11) Brewer's Licence
- (12) Brewer's Retail Licence

23. (1) A licence authorizes the licensee to purchase from the Director and to sell liquor subject to the terms and conditions set out in the licence. Authority of Licence.

(2) Except as provided in this Ordinance, no person may sell or keep for sale liquor without a licence. No one to sell liquor without licence.

Application
for new
licence.

24. (1) Every applicant for a new licence shall make his application to the Commissioner on the prescribed form and shall provide

- (a) an affidavit in the prescribed form;
- (b) a detailed sketch of the premises showing the rooms, services, buildings, construction material and other pertinent information;
- (c) a statement setting out the hours that he will keep his premises open during the licence year or any part or parts thereof;
- (d) the reports of the Fire Marshal, Health Inspector, Building Inspector and an inspector;
- (e) such other requirements as the Commissioner may prescribe; and
- (f) the prescribed fee.

(2) For the purpose of considering an application for a licence under subsection (1), the Commissioner or the Board may cause an inspection to be made of the premises and any other investigation the Commissioner or the Board thinks necessary.

Public
Notice.

25. (1) Every applicant shall give public notice of the making of an application by publication for three successive weeks in a newspaper circulating in the area in which the premises are situated in the prescribed form at or about the time of the making of the application but prior to the hearing of the application.

(2) Proof of publication of the advertisement shall be filed by the applicant with the Director prior to the hearing of the application.

OBJECTION AND HEARING.

Referred
to Board.

26. Upon receipt of an application for a new licence the Commissioner shall refer the application to the Board for a recommendation and shall forward to the Board any relevant material or objections which may be received.

Consideration.

27. Upon receipt of the request for a recommendation, the Chairman shall call a meeting of the Board and forthwith proceed to consider the matter.

28. Any person may object to the granting of a licence by filing his objection together with the reasons therefor in writing with the Commissioner not later than the fifth day after the latest publication of the advertisement referred to in section 25 and serving a copy thereof by registered mail upon the applicant. Objections.

29. (1) If no objection to the granting of the licence has been received in accordance with section 28 and the Board is satisfied that the requirements of the Ordinance and the regulations have been complied with and that a licence should be issued with or without conditions attached thereto the Board shall recommend to the Commissioner that the licence be granted and shall recommend whether it should be granted with or without conditions. Recommendations.

(2) Where the Board recommends that the application for a licence should be granted with conditions it shall give the applicant an opportunity to make representations concerning the conditions. Saving.

30. Where any objection to the application has been made pursuant to section 28 the Board shall fix a day at least seven days after the last day of publication referred to in section 25 for hearing representations on behalf of the applicant and the Director and on behalf of the person or persons who have filed an objection pursuant to section 28. Hearing.

31. The Board shall meet on the day fixed for the hearing to consider the application and the objections and shall decide whether to recommend to the Commissioner that the licence be granted or not granted to the applicant and if granted the terms and conditions of the grant. Decision of Board.

32. (1) The Board shall meet to consider the application at the place in respect of which the application is made or as near thereto as is reasonably practical having regards to all the circumstances. Procedure.

(2) Upon reaching a decision the Chairman of the Board shall communicate the decision together with written reasons therefor to the Commissioner, the applicant, the Director and any persons who may have made objection to the issue of the licence.

(3) The Board's decision shall be passed on a majority vote of the Chairman and members present at the hearing.

Provisional
Recommendations.

33. (1) Where an applicant for a new licence has not constructed or completed the premises in respect of which the application is made he may nevertheless apply for a new licence.

(2) Where an application is made under this section the Commissioner shall refer the matter to the Board and the Board shall proceed to consider the application and the provisions of sections 26, 27, 28, 29, 30, 31 and 32 shall apply *mutatis mutandis*, but the Board shall make a provisional recommendation only.

Conditions.

(3) Where the provisional recommendation of the Board is that the application should be granted the applicant may be granted a licence if within two years of the making of the provisional recommendation he completes a premises in accordance with the plans and specifications submitted to the Board with his application and forwards to the Director the certificates of the Fire Marshal, Health Inspector, Building Inspector and an inspector that the premises have been so constructed and that all requirements and conditions for the granting of the licence have been met and complied with.

(4) Where the applicant does not comply with subsection (3) he may make a fresh application.

Renewal by
Director.

34. (1) An application for a renewal of an existing licence may be granted by the Director without reference to the Board.

Objection to
renewal.

(2) Notwithstanding subsection (1) any person may object to the renewal of a licence by filing his objection in the prescribed form with written reason therefor with the Director not less than thirty days before the time for renewal of the licence.

Referral to
Board.

(3) Where any objection is received to the renewal of a licence the matter shall be referred by the Director to the Board for a recommendation.

Hearing.

(4) Where the Director refers the matter to the Board the provisions of sections 27, 28, 29, 30, 31 and 32 shall apply *mutatis mutandis*.

(5) Notice of the objection shall be served by the objector on the licensee either in person or by registered mail not less than seven days before the expiration of the existing licence. Notice.

(6) Any person may appear at the hearing of objection to the renewal of the licence on filing with the Board his objection and written reason therefor not less than two days before the hearing. Appearance.

35. The provisions of Section 29 shall not apply to applications for renewal of a licence unless so ordered by the Board or the Director. Saving.

APPEAL.

36. An appeal shall lie to the Court from any decision or recommendation of the Board. Appeal to Court.

TAVERN LICENCES.

37. (1) The holder of a tavern licence may sell beer, ale and cider in the licensed premises but may not sell wine or spirits. Tavern Licence.

(2) A tavern licence shall not be issued unless the licensed premises contain a room set aside equipped with such facilities as are approved by the Commissioner, for the sale of beer, ale, cider, fruit juices and soft drinks separately or in combination. Prohibition.

(3) A tavern may be open for the sale of beer, ale and cider during any continuous period not exceeding fourteen hours commencing on any weekday not earlier than 9:00 o'clock in the forenoon and ending on any day other than a Monday not later than 2:00 o'clock in the forenoon but may not be so open between the hours of 2:00 a.m. on any Sunday and 9:00 a.m. on the Monday immediately following. Hours.

COCKTAIL LOUNGE LICENCE.

38. (1) A cocktail lounge licence shall entitle the licensee to sell all types of liquor except draught beer on the licensed premises. Cocktail Lounge Licence.

(2) A cocktail lounge licence shall not be issued unless the licensed premises contain a room set aside, equipped

with such facilities as are approved by the Commissioner, for the sale of liquor, fruit juices and soft drinks, separately or in combination.

Hours.

(3) A cocktail lounge may be open for the sale of liquor during any continuous period not exceeding fourteen hours commencing on any weekday not earlier than 9:00 o'clock in the forenoon and ending on any day other than a Monday not later than 2:00 o'clock in the forenoon but may not be so open between the hours of 2:00 a.m. on any Sunday and 9:00 a.m. on the Monday immediately following.

CONDITIONS.

39. (1) The holder of every tavern licence and cocktail lounge licence shall notify the Director at the commencement of the licence his intended hours of operation, which hours shall be endorsed upon his licence and shall be the permitted hours during which the premises may remain open during the currency of his licence but the hours may be changed at the time of annual renewal.

(2) It shall be a condition of every tavern and cocktail lounge licence that adequate facilities for providing food to customers of the licenced premises during such times as the premises are open for the sale of liquor.

DINING-ROOM LICENCE.

Dining-room
Licence.

40. (1) A dining-room licence shall entitle the licensee to sell liquor on the licenced premises.

(2) A dining-room licence shall not be issued or held unless food is prepared and served on the premises.

Equipment.

(3) In every dining-room

(i) the tables shall be covered with tablecloths or other equivalent suitable covering or surfacing;

(ii) an adequate supply of flat-ware, china and other table service shall be available and used; and

(iii) meals, for which adequate menus shall be provided, shall be served at regular breakfast or luncheon or dinner or supper hours.

(4) Wine may be sold by the bottle, half-bottle, or carafe.

(5) A dining-room may be opened for the sale of liquor between the hours of 10:00 o'clock in the forenoon of any day until 2:00 o'clock in the forenoon of the following day. Hours.

RESTAURANT LICENCE.

41. (1) A restaurant licence shall entitle the licensee to sell beer and table wine on the licenced premises. Restaurant.

(2) Wine may be sold by the bottle, half-bottle or carafe.

(3) In a licensed restaurant beer shall be served only to a person having a meal therein while seated at a table or food counter. Prohibition.

(4) A restaurant may be opened for the sale of beer between the hours of 10:00 o'clock in the forenoon of any day until 2:00 o'clock in the forenoon of the following day. Hours.

CANTEEN AND MESSES.

42. (1) Upon application therefor made to the Commissioner in the prescribed form and upon payment of the fee set forth in the Schedule hereto, the Commissioner may, subject to this Ordinance, grant to officers commanding units of the Active or Reserve Forces in Canada in the Territory a beer licence in respect of a canteen or a liquor licence in respect of a mess. Canteen licences.

(2) Upon application therefor in the prescribed form by the proper authority and upon payment of the fee set forth in the Schedule hereto, a beer licence in respect of a canteen may, subject to this Ordinance, be granted to

(a) a mining, construction or other corporation, Mining, etc.

or

(b) a department of the Government of Canada or Government of the Territory. Departmental

(3) A licence issued under subsection (1) and (2) shall designate the premises in respect of which the licence was granted and no liquor shall be sold or consumed under the authority of the licence at a place other than such premises and no liquor shall be sold or consumed in such premises except on the days and within the hours endorsed on the licence.

TRAIN, SHIP OR AIRCRAFT LICENCE.

Train,
Ship or
Aircraft
Licence.

43. The holder of a train, ship or aircraft licence may sell liquor on a train, ship or aircraft while the train, ship or aircraft is in transit on a trip, the main purpose of which is the transporting of passengers from one point to another point.

OFF-LICENCES.

Off-
Licences.

44. (1) The Commissioner may, in his discretion, issue a licence allowing the retail sale of liquor in any licensed premises for off-premises consumption and may make all necessary regulations to establish hours, prices and serving facilities at such licensed premises.

(2) The Commissioner may issue a licence allowing the retail sale of beer subject to the regulations in any licensed premises for off-premises consumption during the periods when the premises are not permitted to sell beer for consumption on the premises.

SPECIAL LICENCE.

Special.

45. Notwithstanding any other provision of this Ordinance the Commissioner may in his discretion grant a licence for the sale of liquor under circumstances not otherwise provided for in this Ordinance.

CLUBS.

Club Beer
Licence.

46. (1) A club beer licence shall entitle the licensee to sell beer, ale and cider on the licensed premises.

Club General
Licence.

(2) A club general licence entitles the licensee to sell all liquor on the licensed premises.

Hours.

(3) A club may sell liquor during a continuous period of fourteen hours ending not later than 2:00 o'clock in the forenoon of any day but except under the provision of a permit may not sell liquor during the period commencing at 2:00 o'clock in the forenoon of a Sunday and ending at 10:00 o'clock in the forenoon of the Monday immediately following.

Conditions

47. (1) No licence shall be granted under this Ordinance to a club

(a) that is a proprietary club or operated for pecuniary gain;

- (b) unless the club premises are constructed, equipped, conducted, managed and operated to the satisfaction of the Commissioner and in accordance with the Ordinance and regulations;
- (c) unless the club has a permanent local membership of not less than thirty members; or
- (d) unless the application for the licence is approved by two-thirds of the club members who are present at a general or special meeting called to consider the application and it is further certified that not less than fifty per cent of the club members attended such meeting.

(2) A member of a club may purchase liquor for Guests. consumption on the club premises for guests of the member who are of the full age of nineteen years and not otherwise disqualified under this Ordinance from purchasing and consuming liquor.

(3) Every club licensee shall keep a register of the Register of Members. members of the club which register shall be open to inspection by an inspector at all times.

(4) Every club licensee shall post and keep posted in a prominent position on the club premises its licence.

(5) Every club licensee shall keep a visitor's register Register of Visitors. in which shall be entered the name and address of each guest on the club premises, the name of the member by whom the guest was introduced and the time and date of admission.

48. (1) No person not a member or employee of the club or a guest of a member whose name as a guest is registered in the visitor's register of the club shall be permitted to be or remain in any part of the club in which liquor is being sold, served or consumed. Unauthorized persons.

(2) The failure of any person, being in any room in Proof. which liquor is had, kept or consumed in licensed club premises, to produce to an inspector or peace officer in the premises evidence that he is a member of the club, or that he is otherwise lawfully present, shall be admissible in any prosecution or proceedings under this Ordinance against the club or person as evidence that the person was not then a member of such club.

Prohibition. (3) No liquor shall be sold, served or consumed on the premises of any club or other organization, whether incorporated or not, unless such club or organization is the holder of a Club Licence or a permit under this Ordinance.

New Year's Eve. 49. Notwithstanding any other section a licensed premises may remain open for the purposes stated on the licence from 9:00 o'clock of the afternoon of the thirty-first day of December until 3:00 o'clock in the forenoon of the first day of January.

PERMITS.

Reception and special occasion permits. 50. (1) Upon a receipt by a vendor of an application in prescribed form accompanied by the prescribed fee by

- (a) in the case of an application for a reception permit, by any person in charge of a reception, or
- (b) in the case of a reception or special occasion permit, an officer acting on behalf of any corporation or recognized society, association, club or other duly constituted organization, whether incorporated or not,

the vendor may, subject to such regulations as may be made by the Commissioner in that behalf, grant a reception permit or a special occasion permit in prescribed form.

Conditions of permit. (2) The holder of a reception permit may serve liquor in the room or at the place mentioned in the permit.

(3) No person may sell liquor at a reception nor make any charge for admission to the reception.

(4) The holder of a special occasion permit may purchase liquor at a liquor store and serve and sell liquor in the room or at the place mentioned in the permit.

(5) Any application made under subsection (1) shall be signed by the applicant.

(6) A vendor may refuse to issue a permit to any applicant where he considers it in the public interest to do so but shall report the circumstances to the Director whenever he refuses to issue a permit.

(7) Any person aggrieved by the refusal of a vendor to issue a permit may appeal to the Board for a recommendation that such permit should be issued.

(8) The place where the reception or special occasion is to be held shall be sufficient to accommodate the number of people mentioned in the application for a permit.

(9) No permit shall be issued for the holding of a reception or special occasion in that part of a premises licensed as a cocktail lounge or a tavern set aside for the sale of liquor to the public.

(10) The holder of a permit shall be responsible for the lawful use of such permit.

(11) The holder of a permit shall, upon the request of any peace officer or inspector, admit such peace officer or inspector to the hall, room or place where the reception or special occasion is being held for the purpose of inspecting the same and otherwise carrying out his duties.

(12) A permit issued under this section shall be retained in the hall, room or place where the reception or special occasion is held and shall be available to any peace officer or inspector wishing to examine it.

(13) No reception or special occasion at which liquor is served shall be held in any room in which meals are being served to the public at the same time that the reception or special occasion is being held.

(14) Every person who makes an application for a permit under this section on behalf of any fictitious organization or who makes application for any purpose contrary to this section or uses any fictitious name in making application, is guilty of an offence.

(15) Every holder of a permit granted under this section who uses it or permits it to be used in any manner contrary to this section is guilty of an offence.

(16) Every permit shall be for a period and subject to such conditions as may be imposed by the Commissioner.

(17) A special occasion permit may not be issued

- (a) in respect of more than five days in succession;
- (b) to any organization for more than twenty-six days in any one calendar year; or

(c) for use during polling hours on any day on which polling is taking place in the area where the premises are located.

(18) No person shall be violent, quarrelsome, riotous, or disorderly at a reception or special occasion.

(19) An inspector may suspend a permit issued pursuant to this section for disorderly conduct on the premises in respect of which the permit was issued.

Home-made
Wine.

51. (1) The Director may issue to any person a permit to make home-made wine in accordance with this section.

(2) A person to whom a home-made wine permit is issued may make and have in his own residence home-made wine if the total amount of home-made wine in that residence does not at any time exceed twenty-five gallons for that person and twenty-five gallons for each member of his family.

INTERIM LICENCES.

Interim
Licences.

52. (1) The Commissioner may, in a case to which section 53 applies and if it seems to him proper, grant an interim licence in respect of such premises to any person who appears to be entitled to the benefit thereof, as personal representative of the deceased licensee or as an assignee or a trustee in bankruptcy or otherwise by operation of law; but no interim licence shall be for a period of more than two months and the person to whom it is granted has all the privileges and is subject to all the liabilities of a licensee under the Ordinance.

(2) Notwithstanding anything herein the Commissioner may on the recommendation of the Board grant an interim licence pending the completion of any requirement respecting alterations to a premises or compliance with any condition.

Extention.

(3) When a licence becomes void through the death of the licensee, the Commissioner, pending the consideration of the application for the new licence, may issue to the personal representative of the deceased licensee an interim licence for such period additional to the two months provided in subsection (1) as the Commissioner may in writing permit additional to the two months provided.

GENERAL.

53. (1) Every licence for the sale of liquor shall be held to be a licence only to the person therein named and for the premises therein mentioned, and is valid only as long as the person continues to be the true owner or lessee of the business there carried on.

Validity
of
licences.

(2) Where a licensee dies or sells or otherwise assigns his business or becomes dispossessed of it by bankruptcy or by operation of law, then, subject to subsection (3) of section 52, the licence *ipso facto* becomes void and shall be forfeited.

Death of
Licensee.

54. No licence authorizing the sale of liquor may be issued to a minor.

Minors.

55. (1) No licence authorizing the sale of liquor may be issued to a corporation or club unless the Director has been supplied with the name of the officer or agent who is to be in charge of the premises and responsible for the custody and control of the liquor sold therein.

Corporation
club or
association.

(2) Where a corporation or club has more than one place of operation, a separate licence is required for each place of operation.

Where
separate
licences
required.

56. (1) Every licence shall bear the name of the licensee and also in the case of a corporation or club the name of the officer or agent in charge of the premises.

Licence
transferr-
able.

(2) No licence shall be transferrable except on the written authorization of the Director and subject to such conditions as the Director may impose.

57. No licence in respect of a tavern, cocktail lounge, dining-room, restaurant or club shall be granted to or held by any person unless,

Conditions.

- (a) he is a fit person to keep and operate the kind of premises in respect of which a licence is sought;
- (b) he is the true owner or the lessee having a written lease for not less than one year of the premises; and

- (c) the premises in respect of which he applies for a licence conform to the requirements of all laws relating thereto, are constructed so as to be sanitary and in general suitable for the carrying on of the business in a reputable way and have been inspected and approved as such by an inspector.

Manager.

58. Where any licensee is not in personal day to day control of the licensed premises he shall notify the Director from time to time the name of the person who is in day to day control and managing the licensed premises together with the terms of any contract arrangement between the parties and such person's name shall be endorsed on the licence.

Where licensee a corporation.

59. Where any licence under this Ordinance is issued to a corporation anything required by this Ordinance to be done by any person as licensee, whether before or after the granting of a licence, may be done in name of the corporation by the officer or agent of the corporation in charge of the particular premises for which the licence is to be or has been granted.

Public Servants.

60. No licence shall be granted to or for the benefit of a person who is appointed under section 8 and no licence shall be granted in respect of any premises the owner or part owner of which, or of any interest therein, is such an appointee; and every person who knowingly recommends the issue, or is a party to the issue, of a licence in any such case is guilty of an offence.

No. of bedrooms.

61. (1) In the Whitehorse Metropolitan Area or the City of Whitehorse no tavern or cocktail lounge licence shall be granted except in respect of a hotel that has at least thirty bedrooms.

(2) In any other place no tavern licence shall be granted except in respect of a hotel that has at least ten bedrooms and no cocktail lounge licence shall be granted except in respect of a hotel that has at least twenty bedrooms.

Existing licences.

(3) In any place a cocktail lounge licence may be renewed where a hotel contains at least fifteen bedrooms

if it was licensed prior to the 31st day of March, 1965, or it contains twenty bedrooms if it was licensed prior to the 31st day of December, 1969.

(4) Where a hotel was licensed prior to the 31st day of March, 1965, a tavern licence may be renewed if the hotel contains in the case of a hotel in the City of Whitehorse not less than ten bedrooms and in any other place not less than five bedrooms.

62. (1) The Board shall review, at the request of the Commissioner, once every two years, the provisions of subsections (3) and (4) of section 61 and may require as a condition of renewal of the licence in respect of any premises that the number of bedrooms be increased. Bi-annual review.

(2) Where the Board makes a recommendation pursuant to subsection (1) it shall be a condition of any licence renewed after such recommendation that the required number of bedrooms be constructed of a standard acceptable to the Board within a period of not less than two years from the next renewal of the licence. New bedrooms.

63. (1) Except during the periods endorsed on the licence therefor and for a period of thirty minutes thereafter the licensee and any employee of the licensee of a cocktail lounge or tavern shall ensure that such cocktail lounge or tavern is closed to and cleared of all persons, except the licensee, his wife or any employee of the licensee, but nothing herein prevents a peace officer or any inspector from entering any cocktail lounge or tavern in the performance of his duties. Clearance of Premises.

(2) A cocktail lounge or tavern shall remain lighted until all persons other than those authorized by subsection (1) to remain have left the premises. Lighting of Premises.

64. (1) A licensee of a cocktail lounge or dining-room may sell liquor and a licensee of a tavern may sell beer to a *bona fide* guest in his room in accordance with the regulations.

(2) Regulations made under this Ordinance may define guest and regulate the conditions of room service.

Prohibition. **65.** (1) No liquor may be kept for sale, sold or served in any licensed premises, except such liquor as may be endorsed on the licence.

(2) The Commissioner shall in every licence granted specify the part of the premises to which the sale, serving and consumption of liquor is restricted.

Conduct of licensed premises. **66.** No licensee or person employed in any licensed premises shall permit

- (a) any gambling, riotous, quarrelsome, violent or disorderly conduct to take place therein;
- (b) any slot machine or any device used for gambling to be placed, kept or maintained therein; or
- (c) any person in a drunken or intoxicated condition to enter, be or remain therein.

Signs and Public notices. **67.** Every licensee shall post and keep posted his licence in a prominent position in a part of his licensed premises where liquor is permitted to be sold and shall post in the licensed premises or at the entrance thereto such extracts from this Ordinance, signs and notices as the Commission may require or permit but shall not post any other signs or notices.

Sale of beer for consumption off premises. **68.** A licensee of a tavern or a cocktail lounge may sell, during the periods when liquor is permitted to be sold, beer for consumption off the premises to any person entitled to purchase liquor at a liquor store.

Consumption of liquor off premises. **69.** (1) Except as provided in sections 64 and 68, liquor purchased from any licensee shall not be consumed elsewhere than in that part of the licensed premises where liquor is permitted to be sold.

(2) Proof of the removal of any liquor from that part of the licensed premises where liquor is permitted to be sold is *prima facie* proof of the sale of liquor by the licensee contrary to this Ordinance.

Unlawful possession of liquor. **70.** A person who is entitled to possess or consume liquor may lawfully have or keep

- (a) not more than forty ounces of liquor if the liquor was imported into Canada under an authority issued by or with the permission of a Canadian customs officer, or
- (b) not more than twenty-five ounces of spirits or thirty-one ounces of wine or not more than twelve pints of beer if the liquor was purchased from a liquor board, commission or similar body in another part of Canada.

71. No person authorized by this Ordinance to sell liquor shall sell liquor in any other place or at any other time or in any other quantities or otherwise than as authorized by this Ordinance. Sale by authorized persons.

72. (1) Except as authorized by this Ordinance, no person shall by himself or his partner, servant, clerk, agent or otherwise, sell or deliver any liquor to any person who buys liquor for the purpose of reselling it. Sale or delivery of liquor.

(2) No person shall take or carry, or employ or suffer any other person to take or carry, any liquor out of any premises where the liquor is lawfully kept for sale for the purposes of being sold in the Territory by any person not authorized by this Ordinance to sell liquor.

(3) Except as authorized by this Ordinance, no person shall by himself, his clerk, employee, servant or agent, send or cause to be sent to bring or carry, or cause to be brought or carried any package containing liquor from any person or place in the Territory to

- (a) any person who may not lawfully purchase and consume liquor, or
- (b) any place where liquor may not be lawfully kept.

73. (1) No person shall purchase liquor from a person who is not authorized under this Ordinance to sell such liquor. Unlawful purchase of liquor.

(2) No person who purchases liquor shall drink liquor or cause anyone to drink or allow liquor to be drunk upon the premises where it is purchased except in the case of liquor lawfully purchased for consumption in premises wherein the consumption of liquor is permitted.

74. (1) No person shall use or consume liquor purchased from any person within the Territory unless it is lawfully purchased and lawfully received from some person authorized under this Ordinance to sell such liquor.

(2) Subsection (1) does not apply to a person who innocently uses or consumes liquor not so purchased.

Obstruction
of
inspectors.

75. No person shall obstruct an inspector in the execution of his duties under this Ordinance, or refuse to comply with an order of an inspector to aid him in the execution of his duties.

Unlawful
soliciting
and display.

76. Except as permitted by this Ordinance or the regulations, no person within the Territory shall

- (a) exhibit or display or permit to be exhibited or displayed without the approval of the Commissioner any sign or poster containing the words "bar", "barroom", "saloon", "tavern", "cocktail lounge", "beer", "spirits", or "liquors" or words of like import, or
- (b) exhibit or display or permit to be exhibited or displayed any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance or device, or on any hoarding, signboard, billboard or other place in public view or by any of the means aforesaid, advertise any liquor.

EXEMPTIONS.

Saving
provisions
and
exemptions.

77. (1) Notwithstanding anything in this Ordinance, any person may, for medicinal or sacramental purposes, consume liquor or supply or administer it to any person.

(2) The burden of proof that the consumption, supplying and administering of liquor was for medicinal purposes, is upon the person who consumed, supplied or administered it, and a justice who tries a case may draw inferences of fact from the frequency with which the liquor is consumed, supplied or administered, and from the amount of liquor so used, and from the circumstances under which it is used.

78. Notwithstanding anything in this Ordinance, any person may sell, purchase, have in his possession or consume ^{Idem.}

- (a) any pharmaceutical preparation containing liquor that is prepared by a druggist according to a formula of the British Pharmacopoeia, the Codex Medicamentarius of France, the Pharmacopoeia of the United States or the Canadian Formulary, or
- (b) any proprietary or patent medicine within the meaning of the Proprietary or Patent Medicine Act

and may purchase, have in his possession or consume any alcohol for any *bona fide* industrial or scientific purpose.

79. Where a toilet or culinary product, perfume, lotion or flavouring extract or essence contains alcohol and also contains an ingredient or medication that makes it unsuitable as a beverage, a druggist or other person who manufactures or deals in the product may purchase or sell the product and any other person may purchase or use it for any purpose other than as a beverage, but where the justice hearing a complaint respecting selling, buying or consuming such product is of the opinion that an unreasonable quantity of any such product, having regard to the purposes for which the same was legitimately manufactured, was sold or otherwise disposed of to any person or persons either at one time or at intervals and proof is also given that the product so sold or disposed of was used for beverage purposes by any person, the person selling or otherwise disposing of the same may be convicted of selling liquor contrary to this Ordinance and any person who obtains or consumes for beverage purposes any of the products mentioned in this section is guilty of an offence. ^{Idem.}

MISCELLANEOUS.

80. Where by any provision of this Ordinance, power is given to a justice respecting any matter, thing or person and by the same or any other provision, further or other power is given the Commissioner respecting the same matter, thing or person, the latter power shall be in addition to and not in substitution for the former. ^{Powers of Justice.}

PROHIBITION.

- 81.** (1) A magistrate or justice trying an alleged violation of this Ordinance may recommend to the Commissioner the suspension or cancellation of any licence granted for the sale of liquor.
- Recommendation by magistrate or justice.
- (2) Where a recommendation is made by a magistrate or justice under this section the Commissioner may cancel or suspend the licence.
- Licence cancelled.
- 82.** No person shall have or keep in his possession any liquor unless purchased in accordance with this Ordinance.
- Unlawful possession of liquor.
- 83.** (1) No person under the age of nineteen years shall purchase or attempt to purchase or otherwise obtain liquor.
- Persons under nineteen years of age.
- (2) No person other than a parent, grandparent or legal guardian of a person under the age of nineteen years shall give or otherwise supply to that person liquor except for medicinal or sacramental purposes.
- Medicinal Purposes.
- (3) No person under the age of nineteen years shall enter, be in or remain in any tavern or cocktail lounge.
- Prohibition.
- (4) No liquor shall be sold or supplied to a person apparently under the age of nineteen years unless that person furnishes proof on demand that he is nineteen years of age or over.
- Person apparently under age.
- (5) Where a person cannot or refuses to furnish proof as required by subsection (4), he shall immediately leave a liquor store or licensed premises upon being requested to do so.
- Person to leave premises.
- 84.** (1) No person shall be in an intoxicated condition in a liquor store or licensed premises.
- Intoxicated condition.
- (2) No person shall be in an intoxicated condition in a public place.
- Public drunkenness.
- (3) No prosecution shall be taken against any person pursuant to subsection (2) of this section except on the written consent of the Commissioner or an officer authorized by him in that behalf.
- Leave to prosecute.
- 85.** (1) When a peace officer finds a person who, in his opinion, is in an intoxicated condition in a public place,
- Holding intoxicated person without charge.

the peace officer may, instead of charging the person under this Ordinance, take the person into custody to be dealt with in accordance with this section.

(2) A person placed in custody pursuant to this section may be released from custody at any time, if in the opinion of the person responsible for his custody, Release.

(a) the person in custody has recovered sufficient capacity that, if released, he is unlikely to cause injury to himself or be a danger, nuisance or disturbance to others, or

(b) a person capable of doing so undertakes to take care of the person in custody upon his release.

(3) A person taken into custody pursuant to this section shall not be held in custody for more than twenty-four hours after being taken into custody. Time limit.

(4) No action lies against a peace officer or other person for anything done in good faith without negligence with respect to the apprehension, custody or release of a person pursuant to this section. No action lies.

86. No person shall sell or supply liquor to a person who is or appears to be intoxicated. Sale to intoxicated person.

87. No person selling or offering for sale to or purchasing liquor from the Director shall either directly or indirectly Offer of remuneration prohibited.

(a) offer to pay a commission, profit or remuneration, or

(b) make any gift,

to a member of the Board or a person appointed pursuant to section 8 or to anyone on behalf of such person.

PENALTY.

88. Every person who refuses or neglects to obey an order of the Board or who contravenes any provision of this Ordinance or the regulations is guilty of an offence. Offence to violate Ordinance or regulations.

89. (1) Where a person is guilty of an offence under this Ordinance or the regulations for which no special penalty has been provided, he is liable on summary conviction General penalty.

- (a) for a first offence to a fine of not more than one thousand dollars or imprisonment for not more than six months or both such fine and imprisonment, or
- (b) for each subsequent offence to a fine of not more than three thousand dollars or imprisonment for not more than twelve months or to both such fine and imprisonment.

Punishment for corporation.

(2) Where the person convicted of an offence referred to in subsection (1) is a corporation it is liable

- (a) for a first offence to a fine of not more than five thousand dollars, and
- (b) for each subsequent offence to a fine of not more than ten thousand dollars.

Liability of corporation officials.

90. (1) Where an offence under this Ordinance or the regulations is committed by a corporation, the officer or employees of the corporation in charge of the premises in which the offence is committed shall

- (a) *prima facie* be deemed to be a party to the offence, and
- (b) be personally liable to the penalty prescribed for the offence as the principal offender.

Liability of corporation.

(2) Nothing in this section relieves the corporation or the person who actually committed the offence from liability therefor.

Liability of employer.

91. Where an offence under this Ordinance or the regulations is committed by an employer of a person holding a licence under this Ordinance, that person shall *prima facie* be deemed to be a party to the offence.

Description of offence.

92. In a prosecution under this Ordinance or the regulations it is sufficient to state the sale, keeping for sale, disposal, having, keeping, giving, purchasing or consuming of liquor without stating the name, kind of liquor, the price thereof or the consideration therefor.

Certificate of analyst.

93. (1) In any proceedings under this Ordinance a certificate purporting to be signed by an analyst stating that he has performed a chemical analysis on any liquor, or other fluid preparation, compound or substance and the

results thereof, when produced in any court or before any justice, is *prima facie* proof of the facts stated in the certificate without proof of the signature or the official character of the person by whom it purports to be signed.

(2) Subsection (1) does not apply in any proceedings unless, Notice.

- (a) at least seven days' notice in writing is given to the accused that it is intended to tender the certificate of an analyst in evidence, or
- (b) the accused, his agent or counsel have consented to the production in evidence of the certificate of an analyst without such notice.

94. In a prosecution under this Ordinance or the regulations for the sale or keeping for sale or other disposal of liquor or the having, keeping, giving, purchasing or consuming of liquor it is not necessary that a witness should depose to Deposition of witness.

- (a) the precise description or quantity of the liquor sold, kept for sale, disposed of, had, kept, given, purchased or consumed, or
- (b) the precise consideration, if any received therefor.

95. Upon the hearing of a charge of selling or purchasing liquor or of the unlawful having or keeping of liquor contrary to any of the provisions of this Ordinance or the regulations, the court may draw inferences of fact Circumstantial evidence.

- (a) from the kind or quantity of liquor found in the possession of the person accused or in any building, premises, vehicle or place occupied or controlled by that person;
- (b) from the frequency with which liquor is received by the person accused or is received at, or in or removed from any building, premises, vehicle or place occupied or controlled by the person accused;
- (c) from the circumstances under which liquor was obtained or is kept or dealt with; and

- (d) in the case of a preparation or substance legitimately manufactured for other than beverage purposes, from the quantity of the preparation or substance sold or purchased by or in the possession of the person accused.

Proof of sale, etc. of liquor.

96. (1) In proving the sale, disposal, gift, purchase or consumption of liquor, it is not necessary to show in a prosecution that any money actually passed or any liquor was actually consumed if the magistrate is satisfied that a transaction in the nature of a sale, disposal, gift or purchase actually took place.

(2) Proof of consumption or intended consumption of liquor on premises on which such consumption is prohibited is evidence that the liquor was sold or given to or purchased by the person consuming or being about to consume or carry away the liquor.

Certificate of Board.

97. In a prosecution under this Ordinance or the regulations, the production of a certificate or report signed and sworn or purporting to be signed and sworn by a member of the Board or the Director is evidence of the facts stated therein and of the authority of the person giving or making such certificate or report without proof of his appointment or signature.

SEARCH AND SEIZURE.

Arrest without warrant.

98. A peace officer may arrest without warrant a person whom he finds committing an offence against this Ordinance or the regulations.

99. (1) A peace officer who has reasonable grounds for believing and does believe that any liquor is being unlawfully kept may search

- (a) a vehicle, boat or conveyance of any description;
- (b) any person found in a vehicle, boat or conveyance of any description;
- (c) the land in the vicinity of the vehicle, boat or conveyance of any description that is being searched.

(2) Where a justice is satisfied by information upon oath that there are reasonable grounds for believing that liquor is being unlawfully kept or had or kept or had for unlawful purposes in any building or premises, he may, by warrant under his hand, authorize a peace officer or any person named in the warrant to enter and search the building or premises and each part thereof. Search Warrant.

(3) A peace officer who has reasonable grounds for believing and does believe that a violation of this Ordinance or the regulations has been committed or is about to be committed may at any time without warrant enter any building or premises other than a private dwelling without an order and make such search as he deems fit. Search without warrant.

(4) Any person who refuses to admit or attempts to obstruct the entry of a peace officer for the purpose of this section is guilty of an offence. Offence.

(5) Where a female is suspected of an offence under this Ordinance or the regulations, a peace officer shall, if he thinks it advisable to search such female, employ a woman to make such search, and the woman so employed has all the powers, privileges and immunities of a peace officer for that purpose. Search of female.

100. Where a peace officer finds liquor that is had or kept contrary to this Ordinance or the regulations, he may forthwith seize the liquor. Seizure.

101. Where liquor is seized by a peace officer he shall forthwith make an inventory thereof and a report in writing of the seizure to the Director. Report of Seizure.

102. Where a person is found in or around buildings or premises which are being searched pursuant to section 98, he shall on request of a peace officer report to him his correct name and address. Person found in searched premises.

REGULATIONS.

103. (1) The Commissioner may make regulations or orders Regulations.

- (a) for controlling and conducting liquor stores, including the duties and bonding of the em-

ployees at the liquor stores, the manner in which and under what restrictions as to quantity or otherwise, liquor may be sold and delivered at such stores;

- (b) respecting the terms and conditions and the form of licences and permits and applications therefor, and the nature of the proof required to be furnished for replacing licences and permits in place of licences and permits lost or destroyed;
- (c) respecting the operation of licensed premises;
- (d) respecting the number of licences that may be granted in the Territory;
- (e) respecting the disposal of liquor and packages that have been forfeited under this Ordinance.

104. The whole or any section of this Ordinance shall come into force on a day to be fixed by the Commissioner.

105. *The Liquor Ordinance*, being Chapter 67 of the *Revised Ordinances of the Yukon Territory 1958* is hereby repealed.

CHAPTER 4

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE TO AMEND THE
LABOUR STANDARDS ORDINANCE*(Assented to January 22, 1970)*O. Y. T.
1968 (2nd)
c. 1
1969 (2nd)
c. 6

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Subsection (1) of section 11 of the *Labour Standards Ordinance* is repealed and the following substituted therefor:

“(1) Subject to this Part, an employer shall pay to each employee seventeen years of age or over a wage at the rate of not less than *one dollar and fifty cents* an hour or not less than the equivalent of that rate for the time worked by him.”

Minimum
hourly wage.

2. Section 41 of the said Ordinance is amended by adding immediately after subsection (1) thereof the following:

“(2) Where an offence under this Ordinance committed by a corporation is committed with the consent or connivance of any director, manager, secretary or of any official of the corporation in charge or apparently in charge of a project or where an order made pursuant to subsection (1) of section 44 has been disobeyed by a corporation with the consent or connivance of any director, manager, secretary or of any official of the corporation in charge or apparently in charge of a project he, as well as the corporation, is guilty of an offence and he is liable on summary conviction to a sentence not exceeding three months or a fine not exceeding one thousand dollars or to both fine and imprisonment.

(3) Where a complaint is laid against a person who is a corporation a summons may be issued requiring an

officer, director, secretary or partner named therein to appear in court to answer the charge on behalf of the corporation and to attend in court from day to day until the trial or hearing has been completed.

(4) Any person who fails to obey a summons issued pursuant to subsection (3) shall be guilty of an offence and is liable on summary conviction to a sentence not exceeding three months or a fine not exceeding one thousand dollars or to both fine and imprisonment.

(5) Where a person is convicted of an offence under this Ordinance the court may, on the application of the Labour Standards Officer, order such person to furnish to the Labour Standards Officer security, either in the form of a bond together with one or more surety or sureties as the court thinks fit or otherwise satisfactory to the court in amount and form and conditioned for the payment of all wages.

(6) Where the employer furnishes a bond or other security under subsection (5) the Labour Standards Officer may, by giving written notice to the employer either by registered mail or by service of the notice on that employer, apply the proceeds of the bond or security in whole or in part to any wages that the Labour Standards Officer ascertains the employer subsequently owes to any employee.

(7) Where the employer fails to furnish the bond or security under subsection (5) a judge of the Court, upon an application made on behalf of the Labour Standards Officer, may restrain the employer from carrying on any industry or business until the bond or security is furnished and the costs of the application are paid."

Coming into
force.

3. Section 1 of this Ordinance shall come into force on a day to be fixed by the Commissioner.

CHAPTER 5

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE TO AMEND
THE MOTOR VEHICLES ORDINANCE

(Assented to January 22, 1970)

R.O.Y.T.
1958 c. 77
1960 (3rd)
c. 3
1961 (1st)
c. 5
1961 (2nd)
c. 7
1962 (1st)
c. 21
1962 (5th)
c. 8
1963 (2nd)
c. 9
1964 (1st)
c. 9
1965 (2nd)
c. 5
1966 (2nd)
c. 13
1967 (2nd)
c. 13
1968 (1st)
c. 3
1968 (2nd)
c. 10
1968 (4th)
c. 15
1969 (2nd)
c. 8

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. (1) Paragraph (a) of Section 2 of the *Motor Vehicles Ordinance* is repealed.

(2) Paragraph (d) of Section 2 of the said Ordinance is repealed.

(3) Paragraph (i) of Section 2 of the said Ordinance is repealed and the following substituted therefor:

“(i) “livery” or “taxicab” means a motor vehicle that is used by its owner, or driver for the business of transporting passengers at their request to a stated destination but that is not operated at regular intervals or in accordance with a set time and schedule;”

(4) Paragraph (m) of Section 2 of the said Ordinance is repealed and the following substituted therefor:

“(m) “operator” means a person who operates a motor vehicle on a highway;”

2. Subsection (15) of Section 6 of the said Ordinance is repealed and the following substituted therefor:

“(15) Notwithstanding any other provision of this Ordinance or the regulations, where a truck-tractor drawing a trailer is registered or licenced outside the Territory and is brought into the Territory for the purpose of transferring the trailer to a properly licenced truck-tractor, the

Gain or reward.

Livery or taxicab.

Operator.

said first mentioned truck-tractor is exempt from the provisions of this section during the portion of the journey between

- (a) the south border of the Territory and the Watson Lake Check Point and return to the border, and
- (b) the west border of the Territory on the Alaska Highway and the settlement of Beaver Creek and return to the border."

Day of
expiry.

3. Subsection (2) of Section 11 of the *Motor Vehicles Ordinance* is repealed and the following substituted therefor:

"(2) A certificate of registration issued under subsection (1) expires on the last day of the fiscal year for which it was issued."

4. Section 23 of the said Ordinance is amended by adding thereto the following subsections:

"(2) Where a vehicle is to be used for historical, parage or ceremonial purposes only, the Registrar may exempt such vehicle from the provisions of this Ordinance, subject to any conditions he may impose.

(3) Any vehicle so exempted may be issued licence plates indicating the purpose for which the vehicle is to be used."

5. The heading of Part II of the Ordinance is repealed and the following substituted therefor:

"OPERATORS' LICENCES"

6. Section 25 of the said Ordinance is repealed and the following substituted therefor:

"(1) Subject to subsections (2) and (3), no person shall operate a motor vehicle on a highway unless he holds an operator's licence, issued to him under this Ordinance and is operating such motor vehicle in accordance with the conditions prescribed in respect to such licence.

(2) Subsection (1) does not apply to a person who does not reside or carry on business in the Territory for

more than ninety consecutive days in each year if he holds an operator's licence issued to him by his province, state or country of residence.

(3) Subsection (1) does not apply to a member of a visiting force as defined in the visiting forces (North Atlantic Treaty) Act of Canada if said member is in possession of:

- (a) a valid driving permit issued by the government of his country or a sub-division thereof, or
- (b) a military driving permit issued by the Department of National Defense."

7. Section 26 of the said Ordinance is repealed and the following substituted therefor:

"26. The Registrar may issue such class of operator's licence to a person who applies therefor for a period and under such conditions as the Commissioner may prescribe."

8. Section 27 of the said Ordinance is repealed and the following substituted therefor:

"(1) The Registrar may refuse to issue an operator's licence until he is satisfied that the applicant therefor is capable of operating a motor vehicle appropriate to the class for which application is made without endangering the safety of the general public and may require the applicant to submit himself for a medical examination or for examination by an officer on payment of the fees set out in Schedule "A".

(2) Where an examination has been made pursuant to subsection (1) by an officer who is a member of the Royal Canadian Mounted Police, one-half of the required fee shall be remitted by the Territorial Treasurer to the Royal Canadian Mounted Police."

9. Section 28 of the said Ordinance is repealed and the following substituted therefor: Form of application.

"28. (1) Every medical practitioner registered under the *Medical Profession Ordinance* and every optometrist registered under the *Optometry Ordinance* shall report to the Registrar the name, address and clinical condition of

every person fifteen years of age or over attending upon the medical practitioner or optometrist for medical or optometric services who, in the opinion of such medical practitioner or optometrist, is suffering from a condition that may make it dangerous for such person to operate a motor vehicle.

(2) No action shall be brought against a medical practitioner or optometrist for complying with this section.

(3) The report referred to in subsection (1) is privileged for the information of the Registrar only and shall not be open for public inspection, and such report is inadmissible in evidence for any purpose in any trial except to prove compliance with subsection (1).

(4) All papers and other material relating to the report referred to in subsection (1) which are held by the Registrar shall be retained by him in a sealed file and shall not be open to inspection except with the consent of the Registrar or the Commissioner."

10. Section 29 of the said Ordinance is repealed and the following substituted therefor:

Licence
fee.

"29. Every application for an operator's licence shall be made on the prescribed form and shall be accompanied by the licence fee set out in Schedule A."

11. Section 30 of the said Ordinance is repealed and the following substituted therefor:

Signature
on licence
required.

"30. An operator's licence is not valid until the person to whom the licence is issued has written his usual signature thereon in the space provided for that purpose."

12. Section 31 of the said Ordinance is repealed and the following substituted therefor:

Day of
Expiry.

"31. Unless stated otherwise therein, an operator's licence expires on the last day of the fiscal year for which it was issued."

13. Section 32 of the said Ordinance is repealed and the following substituted therefor:

“32. The Commissioner may suspend or cancel an operator’s licence issued under this Ordinance if the licensee violates any of the provisions of this Ordinance or the regulations.” Suspension and cancellation by Commissioner.

14. Section 33 of the said Ordinance is repealed and the following substituted therefor:

“(1) Every holder of an operator’s licence who is convicted of: Licence to be delivered on conviction for endorsement.

- (a) an offence under section 221, 222, 223, 224, 225 or 281 of the Criminal Code,
- (b) the offence of manslaughter or criminal negligence under section 192 or 193 of the Criminal Code committed in either case by a person while operating a motor vehicle

shall, on being so requested by the court, forthwith deliver his licence to the judge, magistrate or justice making the conviction, and the judge, magistrate or justice shall endorse on the licence the particulars of the conviction.

(2) A judge, magistrate or justice who convicts the holder of an operator’s licence of: Magistrate may suspend or cancel licences of offender.

- (a) an offence under this Ordinance;
- (b) an offence under a provision of a municipal by-law that fixes a speed limit within a municipality; or
- (c) an offence under a provision of the regulations; may, upon making the conviction, suspend or cancel the licence and shall send the suspended or cancelled licence to the Commissioner, together with a report setting out the nature of the conviction and the circumstances of the offence.”

15. Section 34 of the said Ordinance is repealed and the following substituted therefor:

“(1) The Registrar may renew an operator’s licence where the applicant applying for a renewed licence: Renewals.

- (a) shows that he has previously been issued a licence;
- (b) gives the number, date of issue and classification of licence to be renewed; and

(c) pays the annual fee set out in Schedule A.

(2) No person who is a holder of an operator's licence shall apply for or obtain another operator's licence of the same class except for the purpose of obtaining a duplicate of a valid and subsisting licence that has been lost, destroyed or become worn out."

16. Section 35 of the said Ordinance is repealed and the following substituted therefor:

Not to allow unlicensed operation.

"35. No person shall allow his motor vehicle to be driven by any person who is not entitled to drive such motor vehicle pursuant to this Ordinance."

17. Section 38 of the said Ordinance is repealed and the following substituted therefor:

Not to use licence of another etc.

"(1) No person shall use an operator's licence that has been issued to another person or that is fictitious or that has been suspended or cancelled.

(2) No person shall allow his operator's licence to be used by another person."

18. Section 39 of the said Ordinance is repealed and the following substituted therefor:

No person to apply for licence during period of suspension.

"39. No person shall apply for, procure or attempt to procure an operator's licence during a period while he is disqualified or prohibited from driving a motor vehicle by reason of the suspension or cancellation of his licence."

19. Section 49 of the said Ordinance is amended by adding immediately following paragraph (a) a new subsection (2) as follows:

Directional signal light.

"(2) Where a motor vehicle, except a motor vehicle designed for the transportation of passengers and having a carrying capacity of less than 9 persons, or a trailer is more than twenty feet in length, or more than 80 inches in width, a signal lamp shall be placed on each side at the rear as near the top as practicable and a signal lamp shall be placed on each side as near the bottom as practicable."

20. Section 123 of the said Ordinance is amended by repealing subsections (1) and (2) and substituting therefor the following:

“(1) Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter, upon, along or adjacent to a highway, except in receptacles provided for the purpose is guilty of the offence of littering the highway and is liable, to a fine of not more than five hundred dollars and in addition his operator’s licence may be suspended for a period of not more than sixty days.”

Throwing
litter on
roads.

(2) Every person who abandons a motor vehicle upon or adjacent to a highway is guilty of an offence and is liable to a fine of not more than one thousand dollars and in addition the judge, magistrate or justice trying the case shall order him to remove the motor vehicle or to pay the costs of the movement.”

21. Sub-section (1) of section 146 is repealed and the following substituted therefor:

“146. (1) Where bodily injury to or the death of any person or damage to property results from an accident in which a motor vehicle is in any manner directly or indirectly involved, any officer at the scene of the accident, or who arrives thereat while any or all of the motor vehicles so involved in the accident are still at the scene thereof, shall, subject to section 147, impound each motor vehicle so involved and require it to be taken

Impound-
ment of
vehicles
involved in
accident.

- (a) if repairs are necessary and immediately desired by the owner, to such repair shop or garage as the owner may select, for the purpose of having it repaired, or
- (b) if repairs are not necessary or are not immediately desired by the owner, to such garage or storage place as the owner may select, unless otherwise required by the officer, in which case the officer may direct it to be taken to a garage or storage place maintained by any police force or other public authority, if such is available, and otherwise to a privately maintained garage or storage place designated by the officer, there to be kept at the expense and risk of the owner of the motor vehicle.”

22. Section 158 of the said Ordinance is repealed and the following substituted therefor:

Failure to produce licence.

“158. Every person who while in actual physical control of a motor vehicle fails to produce his operator’s licence or fails to produce his motor vehicle liability insurance card within a reasonable time after being asked to do so by an officer is guilty of an offence and liable on summary conviction to a fine not exceeding twenty-five dollars.”

23. Section 162 of the said Ordinance is repealed and the following substituted therefor:

Operation of unregistered vehicles and operation without licence.

“(1) Every person who operates on a highway a motor vehicle that is not registered pursuant to this Ordinance and every person who is required to hold an operator’s licence and who while not so licensed operates a motor vehicle on a highway is guilty of an offence and liable on summary conviction

- (a) for the first offence to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding thirty days, and
- (b) for a second or subsequent offence to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment.

Operation after cancellation of licence.

(2) Every person who operates a motor vehicle on a highway after the suspension or cancellation of the certificate of registration thereof or after the suspension or cancellation of his operator’s licence, as the case may be, is guilty of an offence and liable on summary conviction to the penalties provided in subsection (1).”

24. Section 165 of the said Ordinance is amended by inserting a (1) immediately after 165 thereof.

25. Paragraph (e) of section 165 is repealed and the following substituted therefor:

“(e) an operating record of every operator, *which record* shall show all reported convictions of such operator for a violation of any provision of any law relating to the operation of motor vehicles; and all reported unsatisfied judgments against such person for any injury or damage

caused by such person while operating a motor vehicle and such other information as the Commissioner may deem proper, and”

26. Section 165 of the said Ordinance is further amended by adding thereto the following new subsection:

“(2) The Registrar may give copies or extracts of the operating record referred to in paragraph (e) of subsection (1) of this section to any person on payment of the prescribed fee.”

27. Paragraphs (f) and (g) of Section 2 of Schedule A of the said Ordinance are repealed and the following substituted therefor:

- “(f) Classes I, II or III — Operator’s Licence \$2.00
- “(g) Classes IV, V, VI or VII — Operator’s
Licence 5.00”



CHAPTER 6

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE TO AMEND
THE MUNICIPAL ORDINANCE

(Assented to January 22, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Section 16A of the *Municipal Ordinance* is repealed.

2. Section 22 of the said Ordinance is amended by adding thereto a new subsection 4 to read as follows:

“(4) Notwithstanding subsection (3) a special meeting may be called upon a shorter notice, if all members of the Council give their consent to such notice before the commencement of the meeting.”

3. Section 25 of the said Ordinance is repealed and the following substituted therefor:

“25. (1) The Council of a municipality may by by-law provide for an allowance not exceeding in any one year

(a) if the population of a municipality is less than 500 the sum of one thousand dollars for the mayor or reeve and five hundred dollars for an alderman.

(b) if the population of a municipality is more than 500 and less than 5,000 the sum of two thousand five hundred dollars for a mayor or reeve and one thousand dollars for an alderman.

(c) if the population of a municipality is 5,000 or more the sum of five thousand dollars for a mayor and reeve and three thousand dollars for an alderman.

O. Y. T.
1959 (2nd)
c. 1
1960 (1st)
c. 6
1961 (1st)
c. 6
1961 (2nd)
c. 5
1961 (2nd)
c. 9
1961 (3rd)
c. 2
1962 (1st)
c. 22
1962 (5th)
c. 10
1962 (5th)
c. 13
1962 (5th)
c. 16
1963 (1st)
c. 5
1964 (1st)
c. 8
1964 (2nd)
c. 12
1966 (1st)
c. 6
1966 (2nd)
c. 7
1967 (1st)
c. 16
1967 (2nd)
c. 14
1968 (4th)
c. 16

Special meetings.

Allowance for a council.

(2) The Council of a municipality may by by-law provide that a portion of the allowance to be paid to the mayor, reeve or alderman shall be paid as remuneration for expenses necessarily incidental to the discharge of the duties of their offices."

4. Section 27 of the said Ordinance is repealed and the following substituted therefor:

"27. (1) A mayor, reeve or any alderman may resign his seat at any time by giving written notice to the clerk *who shall place the resignation before the next meeting of the Council.*

Resignation.

(2) A resignation takes effect and the seat becomes vacant upon the date the written notice of resignation is received by the clerk, or at such date as may be stated in the resignation.

(3) A resignation may be withdrawn at any time prior to the date stated in the resignation."

5. Section 117B of the said Ordinance is repealed and the following substituted therefor:

117B "The Council may pass by-laws for licensing trailers located in the municipality for thirty days or longer in any year and for prohibiting such trailers being located in the municipality, without a licence therefor.

Licensing of Trailers.

(a) No by-law passed under this paragraph applies to a trailer when located in the municipality only for the purpose of sale or storage.

Application of by-law.

(b) Licence fees may be charged for every month or portion of a month that the trailer is located in the municipality and the licence fees, except for the first thirty days, may be made payable in advance, but no licence fee shall be more than twenty dollars per month.

Municipal Trailer Parks.

(c) A by-law passed under this paragraph may impose fees of different rates proportionate to the size, value or location of trailers and may exempt *bona fide* tourists from the provisions of such licence fee."

6. Paragraph (c) of Section 118 of the said Ordinance is repealed and the following substituted therefor:

Miscellaneous
by-laws.

118 "(c) Authorizing the making of grants to any person, society or organization, other than a hospital or nursing station in the municipality not exceeding in any one fiscal year

(1) *five hundred dollars* without the approval of the Commissioner or two thousand dollars with the approval of the Commissioner to any one such person, society or organization, and

(2) *ten thousand dollars* in the aggregate."

7. Paragraph (a) of subsection (1) of Section 144 of the said Ordinance is repealed and the following substituted therefor:

Notice of
sittings
of Court
of Revision.

144 (1)

"(a) send by mail to every person listed in the assessment roll whose real property or interest therein is assessed at an increased value or newly assessed or to the agent of that Person a notice to that effect and shall keep a proper record of same, and the clerk shall enter the date of mailing the notice in the assessment roll opposite the property or the name of the person assessed, and that entry shall be received in evidence in any court proceeding and shall be *prima facie* proof of the mailing thereof."

8. Paragraph (a) of section 272 of the said Ordinance is repealed and the following substituted therefor:

Proceedings
after close
of time for
receiving
nomination.

272 "(a) If there is only one candidate for the office forthwith declare such candidate elected and give the name of such candidate to the clerk.

(b) If the number of candidates equals the number of vacancies forthwith declare the candidates to be elected and where the vacancies are in respect of different periods of office the candidate whose nomination has been earliest received shall be deemed to be elected to the vacancy with the longest term and the

other candidate or candidates shall be deemed to be elected to the vacancies with lesser terms in the same order,"

9. Subsection (d) (i) of section 294 of the said Ordinance is repealed and the following substituted therefor:

294 "(d) Publicly declare,

(i) the candidate or candidates having the highest number of votes be duly elected and where the vacancies are in respect of different terms of office the candidate having the lowest number of votes shall be deemed to be elected to the vacancy with the shortest term to be served and the other candidates shall rank accordingly."

R.O. to
declare
result of
poll.

10. Subsection (2) of section 307 of the said Ordinance is repealed and the following substituted therefor:

307 "(2) if a vacancy occurs within four months before the next regular municipal election the Council may leave that vacancy unfilled until such election."

Vacancy
near regular
election.

CHAPTER 7

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE TO AMEND AN ORDINANCE
RESPECTING THE RECIPROCAL ENFORCEMENT OF
MAINTENANCE ORDERS

(Assented to January 22, 1970)

R.O.Y.T.
1958 c. 96

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Clauses (b), (c), (d) and (e) of section 2 of the *Reciprocal Enforcement of Maintenance Orders Ordinance* are repealed and the following substituted therefor:

"court"

2. "(b) "court" means an authority having jurisdiction to make maintenance orders;

"dependant"

(c) "*dependant*" means a person that a person against whom a maintenance order is sought or has been made is liable to maintain according to the law in force in the state where the maintenance order is sought or was made;

"Maintenance order"

(d) "maintenance order" means an order, judgment, decree or other similar adjudication of a court that orders or directs, or contains provisions that order or direct, the periodical payment of money as alimony, or as maintenance, or as support for a dependent of the person against whom such order, judgment, decree or adjudication was made;

"reciprocating state"

(e) "reciprocating state" means a state declared under section 14 to be a reciprocating state."

2. The said Ordinance is further amended by adding the following new section immediately after section 2 thereof:

"2A. A maintenance order does not fail to be a maintenance order within the meaning of clause (d) of section

2 solely by reason of the fact that it may be varied by the court by which the order was made.”

3. The said Ordinance is further amended by adding the following new section immediately after section 3 thereof:

“3A. (1) Where a maintenance order has been registered under section 3 the person against whom the order was made may, within one month after he has had notice of the registration or within such further time as may be allowed under subsection (2), apply to the registering court to have the registration set aside. Setting aside.

(2) The registering court may, upon such terms as the justice of the case requires, enlarge the time for making an application fixed by subsection (1) or allowed under this subsection, and any such enlargement may be ordered although the application therefor is not made until after the expiration of the time so fixed or allowed. Extension of time.

(3) On an application under subsection (1), the court may set aside the registration of the maintenance order if it is shown to the court that, Grounds for order.

- (a) the court in the reciprocating state acted without jurisdiction over the person against whom the order was made under the conflict of laws rules of the Territory; or
- (b) the order was obtained by fraud; or
- (c) an appeal is pending.

(4) If the court has set aside the registration of a maintenance order upon the ground that an appeal was pending, the court may at any time thereafter direct that such order be re-registered, and the re-registration may be ordered by the court after notice to the party against whom the order was made, if it is satisfied that the appeal has been dismissed and that no further appeal from such dismissal is pending. Re-registration after appeal.

4. Section 6 of the said Ordinance is amended by adding the following new subsection immediately after subsection (6) thereof

“(6a) Where the court has declined to confirm an order or a part thereof, or has varied or Right of appeal.

rescinded an order, the person in whose favour the order was made and the Commissioner have a like right of appeal.”

5. The said Ordinance is further amended by adding the following new section immediately after section 6 thereof:

Registration
of part of
order.

“6A (1) If a maintenance order contains provisions with respect to matters other than periodical payments of money as alimony, maintenance, or support the order may be registered or confirmed under this Ordinance in respect of those provisions thereof that order or direct such periodical payment of money but may not be so registered or confirmed in respect of any other provisions therein contained.

Procedure
after varia-
tion by
originating
court.

(2) If in proceedings to enforce a maintenance order registered under this Ordinance, or if at any other time, it is established to the satisfaction of the court in which the order is registered or to which a certified copy thereof has been sent for registration or confirmation that the maintenance order has been varied by the court that made it, the court shall record the fact of the variation and the nature and extent of the variation, and any such maintenance order that has been registered shall be deemed to have been varied accordingly and may be enforced only in accordance with the variation, and any such maintenance order that has been sent for registration or confirmation shall be registered or confirmed only as so varied.

Exception.

(3) Subsection (2) does not apply to provisional orders that have been confirmed and that may be varied by the confirming court under subsection (5) of section 6.

Difference
of
terminology
acceptable.

(4) Where under this Ordinance a maintenance order is sought to be registered or a provisional order is sought to be confirmed and the order or any accompanying document uses terminology different from the terminology used in the court designated under subsection (1) of section 3, the difference does not prevent the order being registered or confirmed as the case may be, and when registered or confirmed it has the same force and effect as if it contained the terminology used in the court.”

6. Section 9 of the said Ordinance is repealed and the following substituted therefor:

- “9. The Commissioner may make regulations, ^{Regulations.}
- (a) prescribing the practice and procedure, including costs, under this Ordinance;
 - (b) for facilitating communications between courts in the Territory and courts in a reciprocating state for the purpose of confirmation of provisional orders pursuant to this Ordinance;
 - (c) providing such forms as may be necessary for the purposes of this Ordinance; and
 - (d) without being limited in any way by the foregoing, generally for the purpose of giving effect to the provisions of this ordinance.”

7. Section 14 of the said Ordinance is repealed and the following substituted therefor:

“14. (1) Where the Commissioner is satisfied that <sup>Recipro-
cating
states.</sup> reciprocal provisions will be made by a *state* in or outside Canada for the enforcement therein of maintenance orders made within the Territory, the Commissioner may by order declare it to be a reciprocating state for the purposes of this Ordinance.

(2) The Commissioner may revoke any order made <sup>Revocation
order.</sup> under subsection (1) and thereupon *state* with respect to which the order was made ceases to be a reciprocating state for the purposes of this Ordinance.”

CHAPTER 8

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE TO AMEND THE
SECURITIES ORDINANCE

(Assented to January 22, 1970)

O.Y.T.
1966 (1st)
c. 2

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Paragraph (a) of section 2 of the *Securities Ordinance* is repealed.

2. Section 3 of the *Securities Ordinance* is repealed and the following substituted therefor:

Sale of
Securities.

“3. No person shall, either on his own account or on behalf of any other person, sell or offer for sale in the Territory any security issued in the course of a primary distribution of that security to the public unless a prospectus relating to the security has been filed with and accepted by the Registrar and a receipt in writing therefor in prescribed form has been issued by the Registrar.”

CHAPTER 9

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session) .

AN ORDINANCE TO AMEND
THE WORKMEN'S COMPENSATION ORDINANCE*(Assented to February 6, 1970)*

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

O.Y.T.
1966 (2nd)
c. 2

1. Subparagraph (ii) of subsection (q) of section 2 of the *Workmen's Compensation Ordinance* is repealed and the following substituted therefor:

“(ii) where the total remuneration earned in the year by any workman whose remuneration is required to be included for the purposes of subparagraph (i) exceeds *six thousand six hundred dollars*, the total of the amounts of such excesses for each workman”

Payroll.

2. Paragraph (b) of subsection (3) of section 7 of the said Ordinance is repealed and the following substituted therefor:

“(b) *six thousand six hundred dollars*”

Amount to
be included
as employ-
er's re-
muneration.

3. Paragraph (f) of subsection (1) of section 9 of the said Ordinance is repealed and the following substituted therefor:

“(f) a member of the legal, medical, accounting, orthopedic, dental or pharmaceutical professions”

Employer
to pay
compensa-
tion.

4. Paragraph (g) of subsection (1) of section 9 of the said Ordinance is repealed.

5. Subsection (2) of section 20 of the said Ordinance is amended by deleting the number 17 in the first line thereof and substituting therefor the number 18.

6. Subsection (2) of section 34 of the said Ordinance is repealed and the following substituted therefor:

Idem.

“(2) Where a dependant child who is receiving payments pursuant to paragraph (f) or (h) of subsection (1) of section 32 or subsection (1) or for whose benefit such payments are being made attains the age of eighteen years during a school year, the referee may order the employer making the payments to continue making them to the end of the school year and where the referee so orders, the employer shall continue making the payments of compensation in accordance with the order.”

7. Paragraph (c) of subsection (1) of section 46 of the said Ordinance is repealed and the following substituted therefor:

Maximum average weekly earnings.

“(c) where the accident occurred on or after the first day of April, 1967, five thousand six hundred dollars, or

(d) where the accident occurred on or after the first day of April, 1970, six thousand six hundred dollars.”

Minimum Compensation for total disability.

8. Subsection (a) of section 47 of the said Ordinance is repealed and the following substituted therefor:

“(a) forty dollars per week, or”

9. Paragraphs (a), (b) and (c) of subsection (5) of section 52 of the said Ordinance are repealed and the following substituted therefor:

Allowance.

“(a) eight dollars per day, or

(b) such lesser amount as may be determined by the referee at the request of the Commissioner.”

10. The said Ordinance is further amended by adding thereto immediately after section 59 the following:

"59A. (1) Where an employer has been convicted of an offence under this Ordinance the convicting court shall, in addition to any other penalty, order the employer to comply with the requirement to do anything or furnish any statement or report, the failure to do which or to furnish which, constituted the offence for which he was convicted.

(2) An employer who refuses or neglects to comply with an order of a convicting court made under this section is guilty of an offence and is liable upon summary conviction to a fine not exceeding \$50.00 for each day during which such refusal or failure continues."

CHAPTER 10

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE RESPECTING A FINANCIAL AGREEMENT BETWEEN THE GOVERNMENT OF THE YUKON TERRITORY AND THE GOVERNMENT OF CANADA

(Assented to February 6, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

SHORT TITLE.

Short Title. **1.** This Ordinance may be cited as the *Financial Agreement Ordinance, 1970.*

PART I

Definitions **2.** In this Part,
 "Agreement". (a) "agreement" means the agreement entered into pursuant to section 3;
 "Local Administrative district." (b) "local administrative district" has the meaning given to it in the agreement; and
 "Fiscal Year". (c) "fiscal year" means the period beginning on and including the first day of April in one year and ending on and including the thirty-first day of March in the next year.

Commissioner may execute agreement. **3.** Subject to this Part, the Commissioner is authorized to enter into and execute, on behalf of the Government of the Yukon Territory, an agreement with the Government of Canada which will provide

Provisions of agreement. (a) that the Government of Canada will pay to the Government of the Yukon Territory,
 (i) as an operating grant for the fiscal year 1970/71, an amount equal to \$4,063,786.00 and
 (ii) in respect of the period from the 1st day of April, 1970 to the 31st day of March, 1971, an amount equal to

- (A) all moneys owed by the Government of the Yukon Territory to the Government of Canada and becoming due in that year under a loan agreement entered into pursuant to an Ordinance listed in the Schedule to this Ordinance; minus
- (B) all moneys paid to the Government of the Yukon Territory in that year in respect of self liquidating loans made by the Territory with moneys borrowed from the Government of Canada pursuant to a loan agreement described in clause (A) as certified by the Commissioner; and
- (b) that in consideration thereof the Government of the Yukon Territory will suspend and refrain and will require local administrative districts in the Territory to suspend and refrain from the imposition, levying and collection of
 - (i) individual income taxes, corporation taxes and corporation income taxes in respect of the period commencing on the 1st day of January, 1970, and ending on the 31st day of December, 1971, and
 - (ii) succession duties in respect of successions or transmissions consequent upon a death or upon property passing upon a death occurring during the period commencing on the 1st day of January, 1970, and ending on the 31st day of December, 1971.

4.

The agreement shall also provide

- (a) that the amounts payable by the Government of Canada to the Government of the Yukon Territory shall be paid
 - (i) in the case of the amounts described in subparagraph (i), of paragraph (a) of section 3, in equal instalments in each month in the period from the 1st day of April, 1970, to the 31st day of March, 1971, and

Additional
Provisions
of
agreement.

(ii) in the case of amounts described in subparagraph (ii) of paragraph (a) of section 3, in the amounts and at the times fixed in the loan agreements described in that subparagraph; and

(b) for such other terms and conditions as may be agreed upon for the purpose of giving effect to this Ordinance.

Variation and amendment **5.** The agreement may be varied or amended from time to time, as may be agreed upon with the Government of Canada by the Commissioner.

Ratification. **6.** No variation or amendment to the agreement made pursuant to section 5 is valid unless it is ratified by the Council.

Suspension of Ordinances etc. **7.** Upon execution of the agreement, the Ordinance of the Territory and any regulations, rules, by-laws or orders made thereunder, including those of any local administrative district, shall, for the relevant periods provided in the agreement, be deemed to be amended, suspended or inoperative as the case may be to the extent necessary to give effect to the agreement and to permit the Government of the Yukon Territory to fulfil every obligation assumed by it under the agreement.

No tax collection contravening agreement. **8.** Neither the Commissioner nor any local Administrative district shall do any act or exercise any power or collect any tax in contravention of the provisions of the agreement.

Tax Reduced. **9.** In any case in which by the agreement any tax or fee is required to be reduced, such tax or fee is for the relevant periods provided in the agreement, reduced in accordance with the agreement, and the tax or fee in the reduced amount only shall continue to be payable, exigible and recoverable in the same manner as if it had not been reduced.

Powers of Commissioner. **10.** The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon Territory under the agreement.

11. Sections 7 to 10 shall remain in operation for only so long as is necessary to give effect to the agreement. Operations of sections 7 to 10.

PART II

12. The Commissioner may on behalf of the Territory borrow from the Government of Canada a sum not exceeding \$4,911,603.00. Commissioner may borrow money.

13. The Commissioner is authorized to enter into and execute on behalf of the Government of the Yukon Territory an agreement with the Government of Canada providing for Commissioner may execute agreement.

- (a) the repayment to the Government of Canada of the amount borrowed pursuant to section 12;
- (b) the payment to the Government of Canada of interest at such rate as may be agreed upon by the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 12; and
- (c) such other terms and conditions as may be agreed upon by the Commissioner.

14. The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon Territory under the agreement. Commissioner may implement agreement.

15. No amount shall be borrowed by the Commissioner pursuant to this Ordinance after the 31st day of March, 1971. No borrowing after March 31, 1971.

SCHEDULES

- Yukon Loan Ordinance 1954 (2nd) 3*
- Yukon Loan Ordinance 1955 (2nd) 1*
- Yukon Hospital Loan Ordinance 1955 (2nd) 2*
- Loan Agreement Ordinance 1961 (3rd) 4*
- Financial Agreement Ordinance 1962 (1st) 4*
- Financial Agreement Ordinance 1967 (1st) 19*
- Canada and Anvil Agreements Ordinance 1968 (3rd) 2*
- Financial Agreement Ordinance 1969 (1st) 1*

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE FOR GRANTING
TO THE COMMISSIONER CERTAIN SUMS
OF MONEY TO DEFRAY THE EXPENSES OF
THE PUBLIC SERVICE OF THE TERRITORY

(Assented to February 6, 1970)

Whereas it appears by message from James Smith, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same, that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending March 31, 1971.

Therefore, the Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

Short title **1.** This Ordinance may be cited as the *First Appropriation Ordinance 1970-71*.

Amount granted. **2.** From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole seven million eight hundred and twenty thousand nine hundred and three dollars for defraying the several charges and expenses of the Public Service of the Territory for the twelve months ending March 31, 1971 as set forth in Schedule "A" of this Ordinance and such sum shall be paid and applied only in accordance with the Schedule.

Monies to be accounted for. **3.** The due application of all monies expended pursuant to section 2 shall be accounted for.

SCHEDULE "A"

APPROPRIATION OF ITEM

Capital — Project and Loan \$ 7,820,903.00

CHAPTER 12

ORDINANCES OF THE YUKON TERRITORY

1970 (First Session)

AN ORDINANCE FOR GRANTING
TO THE COMMISSIONER CERTAIN SUMS
OF MONEY TO DEFRAY THE EXPENSES OF
THE PUBLIC SERVICE OF THE TERRITORY

(Assented to February 6, 1970)

Whereas it appears by message from James Smith, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purpose relating thereto, for the one month ending April 30, 1970.

Therefore, the Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. This Ordinance may be cited as the *Interim Supply Appropriation Ordinance 1970-71*. Short title.
2. From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole two million seventy-four thousand seven hundred six dollars for defraying the several charges and expenses of the Public Service of the Territory for the one month ending April 30, 1970, as set forth in Schedule "A" of this Ordinance and such sum shall be paid and applied only in accordance with the Schedule. Amount granted.
3. The due application of all monies expended pursuant to Section 2 shall be accounted for. Monies to be accounted for.

SCHEDULE "A"

APPROPRIATION OF ITEM.

Yukon Council	\$	4,644.00
Territorial Treasurer and Collector of Taxes		2,848.00
Education		138,730.00
Territorial Secretary and Registrar General		3,011.00
Health		41,114.00
Municipal Affairs		87,721.00
Game		3,530.00
General		34,472.00
Engineering		259,051.00
Yukon Hospital Insurance Services		78,665.00
Travel and Information		12,980.00
Yukon Regional Library		8,267.00
Welfare		39,189.00
Personnel Services		506,436.00
Corrections		11,498.00
Loan Amortization		190,808.00
Capital — Project and Loan		651,742.00
		<hr/>
	\$	2,074,706.00

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ORDINANCES
OF THE
YUKON TERRITORY

PASSED BY THE
YUKON COUNCIL

IN THE YEAR
1970
SECOND SESSION

CHAPTER 1

ORDINANCES OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE RESPECTING EMPLOYER
AND EMPLOYEE RELATIONS IN THE
PUBLIC SERVICE OF THE YUKON TERRITORY*(Assented to April 16, 1970)*

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

SHORT TITLE.

1. This Ordinance may be cited as the *Yukon Public Service Staff Relations Ordinance*. Short title.

2. In this Ordinance, Definitions
 - (a) "adjudicator" means an adjudicator appointed under section 80 and includes, where the context permits, an adjudicator named in a collective agreement for the purposes of that agreement; "adjudicator"
 - (b) "arbitral award" means an award made by an arbitrator in respect of a dispute; "arbitral award"
 - (c) "arbitrator" means an arbitrator appointed under section 55; "arbitrator"
 - (d) "bargaining agent" means an employee organization "bargaining agent"
 - (i) that has been certified by the Board as bargaining agent for a bargaining unit, and
 - (ii) the certification of which has not been revoked;
 - (e) "bargaining unit" means a group of two or more employees that is determined, in accordance with this Ordinance, to constitute a unit of employees appropriate for collective bargaining; "bargaining unit"
 - (f) "Board" means the Yukon Public Service Staff Relations Board established under section 7; "Board"

CHAP. 1

PUBLIC SERVICE STAFF RELATIONS

“Chairman”

(g) “Chairman” means the Chairman of the Board;

“collective agreement”

(h) “collective agreement” means an agreement in writing entered into under this Ordinance between the employer on the one hand, and a bargaining agent on the other hand, containing provisions respecting terms and conditions of employment and related matters;

“conciliation board”

(i) “conciliation board” means a board established under section 67 for the investigation and conciliation of a dispute;

“conciliator”

(j) “conciliator” means a person appointed by the Chairman under section 44 to assist the parties to collective bargaining in reaching agreement;

“designated employee”

(k) “designated employee” means an employee who is agreed by the parties to collective bargaining or determined by the Board pursuant to section 43 to be a designated employee within the meaning of that section;

“dispute”

(l) “dispute” means a dispute or difference arising in connection with the conclusion, renewal or revision of a collective agreement, in respect of which arbitration is requested pursuant to section 53 or in respect of which the establishment of a conciliation board may be requested pursuant to section 66;

“employee”

(m) “employee” means a person employed in the public service other than

(i) a person appointed by the Commissioner under an Ordinance to a statutory position described in that Ordinance,

(ii) a person locally engaged outside the Territory,

(iii) a person whose compensation for the performance of the regular duties of his position or office consists of fees of office, or is related to the revenue of the office in which he is employed,

- (iv) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,
 - (v) a person employed on a casual or temporary basis, unless he has been so employed for a period of six months or more,
 - (vi) a person employed by or under the Board, or
 - (vii) a person employed in a managerial or confidential capacity,
- and for the purpose of this paragraph, a person does not cease to be employed in the public service by reason only of his ceasing to work as a result of a lawful strike or by reason only of his discharge contrary to this or any other Ordinance;
- (n) "employee organization" means an organization of employees, the purposes of which include the regulation of relations between the employer and his employees for the purposes of this Ordinance, and includes, unless the context otherwise requires, a council of employee organizations; "employee organization"
 - (o) "employer" means the Commissioner; "employer"
 - (p) "grievance" means a complaint in writing presented in accordance with this Ordinance by a bargaining agent on behalf of one or more of its members or by an employee on his own behalf or on behalf of himself and one or more other employees, and includes a reference to adjudication under section 85 of this Ordinance, except that for the purposes of any of the provisions of this Ordinance respecting grievances, a reference to an "employee" includes a person who would be an employee but for the fact that he is a person employed in a managerial or confidential capacity; "grievance"
 - (q) "person employed in a managerial or confidential capacity" means any person who "person employed in a managerial or confidential capacity"

- (i) is a unit head as defined in the *Public Service Ordinance*, or any other person employed in the Public Service who is identified in prescribed manner by the employer, or by the Board on objection thereto by the bargaining agent, to be a person
- (ii) who has executive duties and responsibilities in relation to the development and administration of government programmes,
- (iii) whose duties include those of a personnel administrator or who has duties that cause him to be directly involved in the process of collective bargaining on behalf of the employer,
- (iv) who is required by reason of his duties and responsibilities to deal formally on behalf of the employer with a grievance presented in accordance with the grievance process provided for in this Ordinance,
- (v) who is employed in a position confidential to any person described in subparagraphs (i), (ii), (iii) or (iv), or
- (vi) who is not otherwise described in subparagraphs (ii), (iii), (iv) or (v), but who in the opinion of the Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

"prescribed"

(r) "prescribed" means prescribed by regulations of the Commissioner on the recommendation of the Board;

"process for resolution of a dispute"

(s) "process for resolution of a dispute" means either of the following processes for the resolution of a dispute namely;

- (i) by the referral of the dispute to arbitration, or
- (ii) by the referral thereof to a conciliation board;

- (t) "remuneration" includes a *per diem* or other allowance for the performance of the duties of a position or office; "remuneration"
- (u) "strike" includes a cessation of work or a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding or a slowdown or other concerted activity on the part of employees designed to restrict or limit output; "strike"
- (v) "Vice-Chairman" means the Vice-Chairman of the Board. "Vice-Chairman"

3. (1) Nothing in this Ordinance shall be construed to affect the right or authority of the employer

- (a) to manage and direct the members of the public service;
- (b) to determine the organization of the public service and to assign duties to and classify positions therein;
- (c) to recruit and make appointments to the public service;
- (d) to transfer and promote within the public service; and
- (e) to lay off, demote, or discipline an employee.

(2) Subject to paragraph (a) of sub-paragraph (3) of section 88, nothing in this Ordinance affects the right of the employer to engage private contractors or contract work out for any purpose whatsoever.

4. (1) No person who is employed in a managerial or confidential capacity shall be a member of an employee organization.

(2) No person who is employed in a managerial or confidential capacity, whether or not he is acting on behalf of the employer, shall participate in or interfere with the formation or administration of an employee organization or the representation of employees by such an organization. Employer participation in employee organization.

(3) No person shall

- (a) refuse to employ or to continue to employ any person, or otherwise discriminate against any Discrimination against members and intimidation.

person in regard to employment or any term or condition of employment because the person is a member of an employee organization or was or is exercising any right under this Ordinance;

- (b) impose any condition on an appointment or in a contract of employment or propose the imposition of any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member of an employee organization or exercising any right under this Ordinance; or
- (c) seek by intimidation, by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee
 - (i) to become, refrain from becoming or cease to be, or
 - (ii) except as otherwise provided in a collective agreement, to continue to be, a member of an employee organization, or to refrain from exercising any other right under this Ordinance;

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed, or proposed to be employed, in a managerial or confidential capacity.

(4) No moneys deducted from an employee's salary for payment to an employee organization or paid to an employee organization by an employee of the public service shall be used directly or indirectly on behalf of any political party or on behalf of any candidate for political office.

(5) The Commissioner shall not make any deduction from an employee's salary for payment to an employee organization unless the employee organization delivers to the Commissioner a statutory declaration made by a duly authorized officer that the employee organization is complying and will continue to comply with subsection (4).

5. (1) Except in accordance with this Ordinance or any regulation, collective agreement or arbitral award, no person employed in a managerial or confidential capacity, whether or not he acts on behalf of the employer, shall discriminate against an employee organization.

Discrimination against employee organization.

(2) Nothing in subsection (1) shall be construed to prevent a person employed in a managerial or confidential capacity from receiving representations from, or holding discussions with, the representatives of any employee organization.

Saving provision.

6. Except with the consent of the employer, no officer or representative of an employee organization shall attempt, on the employer's premises during the working hours of an employee, to persuade the employee to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization.

Soliciting membership during working hours.

7. (1) There shall be a Board to be called the Yukon Public Service Staff Relations Board consisting of a Chairman and, if the Commissioner deems it advisable, a Vice-Chairman, and not less than two nor more than eight members to be appointed as being representative in equal numbers of the interests of employees and of the interests of the employer respectively.

(2) The Chairman, the Vice-Chairman and the other members of the Board shall be appointed by the Commissioner to hold office during good behaviour for such period not exceeding five years as may be determined by the Commissioner.

(3) A retiring Chairman, Vice-Chairman or other member may be re-appointed to the Board in the same or another capacity.

(4) Appointments to the Board made by the Commissioner under this Ordinance, or appointments made by the Commissioner on the recommendation of the Chairman or by the Chairman shall be deemed not to be made by Her Majesty in right of Canada as represented by the Treasury Board or by the Governor in Council.

8. If the Chairman is absent or unable to act, or the office of the Chairman is vacant

(a) the Vice-Chairman, if one has been appointed, shall act as Chairman, or

(b) if no Vice-Chairman has been appointed, the Commissioner may appoint a person to act as Chairman,

and while so acting the Vice-Chairman or the person appointed to act as Chairman, as the case may be, has and may exercise all of the powers and functions of the Chairman under this Ordinance.

QUALIFICATIONS FOR MEMBERSHIP.

Qualification 9. (1) A person is not eligible to hold office as a member of the Board if

(a) he holds any other office or employment under the employer, or

(b) he is a member of or holds an office or employment under an employee organization that is a bargaining agent.

Exceptions

(2) Where a member ceases to be a member of the Board for any reason he may, notwithstanding anything in this Ordinance, carry out and complete any duties or responsibilities that he would otherwise have had if he had not ceased to be a member in connection with any matter

(a) that came before the Board while he was still a member thereof, and

(b) in respect of which there was any proceeding in which he participated as a member.

10. The Commissioner shall fix

(a) the remuneration to be paid to the members of the Board and any other person appointed under the Ordinance, and

(b) travelling and living expenses to be paid to the members of the Board or any other person appointed under this Ordinance in connection with the performance of their duties when absent from their ordinary place of residence.

11. The Board may meet at such times and places, whether within or without the Territory, as it considers

necessary or desirable for the proper conduct of its business.

12. (1) At any meeting of the Board for the conduct of its business, at least the following members, namely: Meetings for conduct of business.

- (a) the Chairman, or the Vice-Chairman;
- (b) one member who has been appointed as being representative of the interests of employees; and
- (c) one member who has been appointed as being representative of the interests of the employer,

shall be present.

(2) For the purpose of facilitating the hearing or determination of any matter by the Board, the Chairman may direct that the powers, duties and functions of the Board under this Ordinance shall be exercised and performed by a division of the Board, to consist of Divisions of the Board.

- (a) either the Chairman or the Vice-Chairman; and
- (b) at least two other members to be designated by the Chairman in such a manner as to ensure that the number of members appointed as being representative of the interests of employees equals the number of members appointed as being representative of the interests of the employer.

(3) A decision of a majority of those present at any meeting of the Board, or of a division thereof, is a decision of the Board or the division thereof, as the case may be, except that where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote. Decision of majority.

13. (1) The Commissioner, on the recommendation of the Board, may appoint such other persons as the Board deems necessary for the performance of its duties and fix their remuneration.

(2) The Commissioner may fix the remuneration of conciliators and other experts or persons having technical or special knowledge to assist the Board and the Chairman in any advisory capacity.

(3) The Commissioner may delegate to the Chairman his powers under subsection (1) either generally or in specific cases.

Powers and duties of the Board.

14. The Board shall administer this Ordinance and shall exercise such powers and perform such duties as are conferred or imposed upon it by, or as may be incidental to the attainment of the objects of, this Ordinance including, without restricting the generality of the foregoing, the making of orders requiring compliance with the provisions of this Ordinance with any regulation made hereunder or with any decision made in respect of a matter coming before it.

Authority of Board to make regulations.

15. The Commissioner may, on the recommendation of the Board, make regulations of general application respecting,

- (a) the manner in which persons shall be designated by the employer, or by the Board on objection thereto by a bargaining agent, to be persons described in paragraph (q) of section 2;
- (b) the determination of units of employees appropriate for collective bargaining;
- (c) the certification of bargaining agents for bargaining units;
- (d) the hearing or determination of any matter relating to or arising out of the revocation of certification of a bargaining agent, including the rights and privileges that have accrued to and are retained by any employee notwithstanding such revocation;
- (e) the rights, privileges and duties that are acquired or retained by an employee organization in respect of a bargaining unit or any employee included therein where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations;
- (f) the establishment of rules of procedure for hearings under this Ordinance;

- (g) the specification of the time within which the persons to whom notices and other documents shall be sent and when such notices shall be deemed to have been given and received;
- (h) the determination of the form in which, and the time as of which, evidence
 - (i) as to membership of employees in an employee organization,
 - (ii) of objection by employees to certification of an employee organization, or
 - (iii) of signification by employees that they no longer wish to be represented by an employee organizationshall be presented to the Board upon an application for certification of or for revocation of certification of a bargaining agent, and the circumstances in which evidence as to membership of employees in an employee organization may be received by the Board as evidence that such employees wish that employee organization to represent them as their bargaining agent,
- (i) the hearing of complaints under section 16,
- (j) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph (b) of subsection (2) of section 22, and
- (k) such other matters and things as may be incidental or conducive to the objects and purposes of the Board, the exercise of its powers and attainment of the objects of this Ordinance.

16. (1) The Board shall examine and enquire into any complaint made to it that the employer, or any person acting on his behalf, or that any employee organization, or any person acting on its behalf, has failed

- (a) to observe any prohibition or to give effect to any provision contained in this Ordinance or the regulations;

- (b) to give effect to any provision of an arbitral award;
- (c) to give effect to a decision of an adjudicator with respect to a grievance; or
- (d) to comply with any regulation respecting grievances made by the Commissioner pursuant to section 86.

Order of Board directing compliance

(2) Where under subsection (1) the Board determines that any person has failed to observe any prohibition, to give effect to any provision or decision or to comply with any regulation as described in subsection (1), it may make an order, addressed to that person, directing him to observe the prohibition, give effect to the provision or decision or comply with the regulation, as the case may be, or take such action as may be required in that behalf within such specified period as the Board may consider appropriate, and

- (a) where that person has acted or purported to act on behalf of the employer, it shall direct its order as well to the Director of Personnel as defined in the *Public Service Ordinance*, and to the head of the appropriate department, and
- (b) where that person has acted or purported to act on behalf of an employee organization, it shall direct its order as well to the chief officer of that employee organization.

Where order not complied with.

17. Where any order made under section 16 directs some action to be taken and is not complied with within the period specified in the order for the taking of such action, the Board shall forward to the Commissioner, a report of the circumstances and all documents relevant thereto, and the copy of the order, the report and the relevant documents shall be laid by the Commissioner before the Territorial Council within fifteen days after receipt thereof by him or, if the Territorial Council is not then sitting, on any of the first fifteen days next thereafter that the Territorial Council is sitting.

18. The Board has, in relation to the hearing and determination of any matter which the Board may hear

and determine under the Ordinance or the regulations under this Ordinance, power

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Board deems requisite to the full investigation and consideration of matters within its jurisdiction in the same manner and to the same extent as a Judge of the Court;
- (b) to administer oaths and affirmations;
- (c) to receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it sees fit, whether admissible in a court of law or not and, without limiting the generality of the foregoing, the Board may refuse to accept any evidence that is not presented in the form and at the time prescribed or ordered;
- (d) to require the employer to post and keep posted in appropriate places any notices that the Board deems necessary to bring to the attention of any employees any matter or proceeding before the Board;
- (e) subject to such limitations as the Commissioner in the interests of defence or security may prescribe, to enter any premises of the employer where work is being or has been done by employees and to inspect and view any work, material, machinery, appliances or articles therein and interrogate any person respecting any matter;
- (f) to enter upon the employer's premises for the purpose of conducting representation votes during working hours; and
- (g) to authorize any person to do anything that the Board may do under paragraphs (b) to (f) and to report to the Board thereon.

Application of orders.

19. Where under this Ordinance the Board may make or issue any order or direction, prescribe any term or condition or do any other thing in relation to any person, the Board may do so, either generally or in any particular case or class of cases.

Review or amendment of orders.

20. The Board may review, rescind, amend, alter or vary any decision or order made by it, or may rehear any application before making an order in respect thereof, but any rights acquired by virtue of any decision or order that is so reviewed, rescinded, amended, altered or varied shall not be altered or extinguished with effect from a day earlier than the day on which such review, rescission, amendment, alteration or variation is made.

Application by employee organization.

21. An employee organization seeking to be certified as bargaining agent for a group of employees that it considers constitutes a unit of employees appropriate for collective bargaining may, subject to section 24 apply in the manner prescribed to the Board for certification as bargaining agent for the proposed bargaining unit.

Application by council of organizations.

22. (1) Where two or more employee organizations have come together to form a council of employee organizations, the council so formed may, subject to section 24, apply in the manner prescribed to the Board for certification as described in section 21.

Requirements and conditions for certification of council

(2) The Board may certify a council of employee organizations as bargaining agent for a bargaining unit where the Board is satisfied that

- (a) the requirements for certification established by this Ordinance are met, and
- (b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent.

Council deemed to be employee organization

23. A council of employee organizations shall, for all purposes of this Ordinance except subsection (2) of section 22, be deemed to be an employee organization, and membership in any employee organization that is part of

a council of employee organizations shall for the same purpose be deemed to be membership in the council.

WHEN APPLICATION FOR CERTIFICATE MAY BE MADE

24. (1) Where a collective agreement or an arbitral award is in force and is for a term of not more than two years, an employee organization may apply to the Board for certification as bargaining agent for any of the employees in the bargaining unit to which the agreement or award applies only after the commencement of the last two months of its operation.

When agreement concluded for term of not more than two years.

(2) Where a collective agreement or an arbitral award is in force and is for a term of more than two years, an employee organization may apply to the Board for certification as bargaining agent for any of the employees in the bargaining unit to which the agreement or award applies only

When agreement concluded for term of more than two years.

- (a) after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation;
- (b) during the two-month period immediately preceding the end of each year that the agreement or award continues to operate after the second year of its operation; or
- (c) after the commencement of the last two months of its operation.

(3) Where a collective agreement referred to in subsection (1) or (2) provides that it will continue to operate after the term specified therein for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the collective agreement, an employee organization may apply to the Board for certification as bargaining agent for any of the employees in the bargaining unit to whom the collective agreement applies at any time permitted by subsection (1) or (2), as the case may be, or during the two-month period immediately preceding the end of each year that the collective agreement continues to operate after the term specified therein.

When agreement concluded for indefinite term.

No certification where previous application refused within twelve months.

25. Where an application for certification of an employee organization as bargaining agent for a proposed bargaining unit has been refused by the Board, the Board shall not certify the employee organization as bargaining agent for the same or substantially the same proposed bargaining unit until at least twelve months have elapsed from the day on which the Board last refused such certification, unless the Board is satisfied that the previous application was refused by reason only of a technical error or omission made in connection therewith.

Determination of unit appropriate for collective bargaining.

26. (1) Where an employee organization has made application to the Board for certification as described in section 21 the Board shall determine the relevant group of employees that constitutes a unit appropriate for collective bargaining.

Composition of bargaining unit.

(2) For the purposes of this Ordinance, a unit of employees may be determined by the Board to constitute a unit appropriate for collective bargaining whether or not its composition is identical with the group of employees in respect of which application for certification was made.

Determination of membership in bargaining units.

27. Where, at any time following the determination by the Board of a group of employees to constitute a unit appropriate for collective bargaining, any question arises as to whether any employee or class of employees is or is not included therein or is included in any other unit, the Board shall, on application by the employer or any employee organization affected, determine the question.

CERTIFICATION.

Certification of employee organization as bargaining unit.

28. Where the Board

- (a) has received from an employee organization an application for certification as bargaining agent for a bargaining unit in accordance with this Ordinance;
- (b) has determined the group of employees that constitutes a unit appropriate for collective bargaining in accordance with section 26;
- (c) is satisfied that at the date the application was made a majority of employees in the

bargaining unit wished the employee organization to represent them as their bargaining agent; and

- (d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to make the application;

the Board shall, subject to this Ordinance, certify the employee organization making the application as bargaining agent for the employees in that bargaining unit.

29. (1) For the purpose of enabling the Board to discharge any obligation imposed by section 28 to satisfy itself as to the matters described in paragraphs (c) and (d) of that section, the Board may

Powers of Board in relation to certification.

- (a) examine, in accordance with any regulations in that behalf, such evidence as is submitted to it respecting membership of the employees in the proposed bargaining unit in the employee organization seeking certification;
- (b) make or cause to be made such examination of records or make such inquiries as it deems necessary; and
- (c) examine documents forming or relating to the constitution or articles of association of the employee organization seeking certification;

and, in its sole discretion, the Board may in any case for the purpose of satisfying itself that a majority of employees in the bargaining unit wish the employee organization to represent them as their bargaining agent, direct that a representation vote be taken among the employees in the bargaining unit.

(2) Where under subsection (1) the Board directs that a representation vote be taken, the Board shall

Where representation vote to be taken.

- (a) determine the employees that are eligible to vote, and
- (b) make such arrangements and give such directions as to it appear requisite for the proper conduct of the representation vote including

the preparation of ballots, the method of casting and counting ballots and the custody and sealing of ballot boxes.

Where participation by employer in formation of employee organization.

30. (1) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization in the formation or administration of which there has been or is, in the opinion of the Board, participation by the employer or any person acting on behalf of the employer of such a nature as to impair its fitness to represent the interests of employees in the bargaining unit.

Where money received or paid for activities by political party.

(2) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that

- (a) receives from any of its members who are employees;
- (b) handles or pays in its own name on behalf of members who are employees; or
- (c) requires as a condition of membership therein the payment by any of its members of any money for activities carried on by or on behalf of any political party.

Where discrimination by reason of race, etc.

(3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee because of sex, race, national origin, colour or religion.

EFFECT OF CERTIFICATION.

Effect of Certification.

31. (1) Where an employee organization is certified under this Ordinance as the bargaining agent for a bargaining unit,

- (a) the employee organization has the exclusive right under this Ordinance;
 - (i) to bargain collectively on behalf of employees in the bargaining unit and to bind them by a collective agreement until its certification in respect of the bargaining unit is revoked, and
 - (ii) to represent, in accordance with this Ordinance, an employee in the presentation or reference to adjudication of a grievance relating to the interpretation

or application of a collective agreement or arbitral award applying to the bargaining unit to which the employee belongs;

- (b) if another employee organization had been previously certified as bargaining agent in respect of employees in the bargaining unit, the certification of the previously certified bargaining agent is thereupon revoked in respect of such employees; and
- (c) if, at the time of certification, a collective agreement or arbitral award binding on the employees in the bargaining unit is in force, the employee organization shall be substituted as a party to the agreement or award in place of the bargaining agent that had been a party thereto and may, notwithstanding anything contained in the agreement or award, terminate the agreement or award, in so far as it applies to the employees in the bargaining unit, upon two months' notice to the employer given within one month from such certification.

(2) In any case where paragraph (b) and (c) of subsection (1) applies, any question as to any right or duty of the previous bargaining agent or the new bargaining agent arising by reason of the application of that paragraph shall, on application by the employer or the previous or the new bargaining agent, be determined by the Board.

Determination of questions as to rights of previous or new bargaining agent.

REVOCATION OF CERTIFICATION ON APPLICATION.

32. (1) Where a collective agreement or an arbitral award is in force in respect of a bargaining unit, any person claiming to represent a majority of the employees in that bargaining unit may in accordance with subsection (2), apply to the Board for a declaration that the employee organization certified as bargaining agent for that bargaining unit no longer represents a majority of the employees therein.

Application for declaration that employee organization no longer represents employees.

(2) An application under subsection (1) may be made

When application may be made.

- (a) where the collective agreement or arbitral award is for a term of not more than two years, only after the commencement of the last two months of its operation;
- (b) where the collective agreement or arbitral award is for a term of more than two years, only after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation, during the two-month period immediately preceding the end of each year that it continues to operate after the second year of its operation, or after the commencement of the last two months of its operation, as the case may be; and
- (c) where the collective agreement provides that it will continue to operate after the term specified therein for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or with a view to the making of a new collective agreement, at any time permitted by paragraph (a) or (b), as the case may be, or during the two-month period immediately preceding the end of each year that the agreement continues to operate after the term specified therein.

Taking of
representa-
tion vote.

(3) Upon an application under subsection (1), the Board in its sole discretion may direct the taking of a representation vote in order to determine whether a majority of the employees in the bargaining unit no longer wish to be represented by the employee organization that is the bargaining agent for that bargaining unit, and in relation to the taking of any such vote the provisions of subsection (2) of section 29 apply.

Revocation
of certifica-
tion of
employee
organization.

(4) After hearing any application under subsection (1), the Board shall revoke the certification of an employee organization as bargaining agent for a bargaining

unit if it is satisfied that a majority of the employees in that bargaining unit no longer wish to be represented by the employee organization.

FOR ABANDONMENT OR OTHER CAUSE.

33. (1) The Board shall revoke the certification of a bargaining agent where the bargaining agent advises the Board that it wishes to give up or abandon its certification or where the Board, upon application by the employer or any employee, determines that the bargaining agent has ceased to act as such. Abandonment of certification.

(2) Where the Board, upon application to the Board by the employer or any employee, determines that a bargaining agent would not, if it were an employee organization applying for certification, be certified by the Board by reason of a prohibition contained in section 30, the Board shall revoke the certification of the bargaining agent. Revocation where certification prohibited under s. 39.

FOR FRAUD.

34. (1) Where at any time the Board is satisfied that an employee organization has obtained certification as bargaining agent for a bargaining unit by fraud, the Board shall revoke the certification of such employee organization. Certification obtained by fraud.

(2) An employee organization the certification of which is revoked pursuant to subsection (1) is not entitled to claim any right or privilege flowing from such certification, and any collective agreement or arbitral award applying to the bargaining unit for which it was certified, to which such employee organization was a party, is void. Effect of revocation.

REVOCATION OF CERTIFICATION OF COUNCIL.

35. In addition to the circumstances in which, pursuant to section 32, 33 or 34, the certification of a bargaining agent may be revoked, where an employee organization that is a council of employee organizations has been certified as bargaining agent for a bargaining unit, the Board, on application to it by the employer or an employee organization that forms or has formed part of the council, shall revoke the certification of the council where it determines that, by reason of Revocation of certification of council.

- (a) an alteration in the constituent membership of the council, or
- (b) any other circumstance,

the council no longer meets the additional requirements for certification required for a council of employee organizations by subsection (2) of section 22.

**EFFECT OF REVOCATION:
RIGHTS OF EMPLOYEE ORGANIZATIONS AND EMPLOYEES.**

Effect of revocation where collective agreement or arbitral award in force.

36. Where, at the time the certification of a bargaining agent for a bargaining unit is revoked, a collective agreement or arbitral award binding on the employees in that bargaining unit is in force, except where another employee organization is substituted as a party to the agreement or award upon the revocation of such certification the agreement or award shall thereupon cease to be in effect.

Determination of rights of bargaining agent by Board.

37. Where the certification of a bargaining agent for a bargaining unit is revoked by the Board pursuant to section 32, 33 or 34 any question as to any right or duty of that bargaining agent or of any new bargaining agent replacing it shall, on application by either organization, be determined by the Board.

Direction as to manner in which rights acquired by employee are to be recognized.

38. Where the certification of a bargaining agent for a bargaining unit is revoked by the Board pursuant to section 32, 33, 34 or 35 and as a result thereof a collective agreement or arbitral award binding on the employees in the bargaining unit ceases to be in effect or a collective agreement or arbitral award applying to the bargaining unit is void, the Board shall, on application to it by or on behalf of any employee and in accordance with any regulations made by it in respect thereof, direct the manner in which any right acquired by, or determined by the Board to have accrued to, an employee that is affected by the revocation is to be recognized and given effect to.

SUCCESSOR RIGHTS.

Mergers, amalgamations and transfers of jurisdiction.

39. Where, upon a merger or amalgamation of employee organizations or a transfer of jurisdiction among employee organizations otherwise than as a result of revo-

cation of certification, any question arises concerning the rights, privileges and duties of an employee organization under this Ordinance or under a collective agreement or arbitral award in respect of a bargaining unit or an employee therein, the Board, on application to it by any employee organization affected, shall examine the question and may, in accordance with any regulations made by it in respect thereof, declare or determine what rights, privileges and duties if any have been acquired or are retained, as the case may be, by that employee organization.

40. (1) Where the Board has certified an employee organization as bargaining agent for a bargaining unit, Notice to bargain collectively.

(a) the bargaining agent may, on behalf of the employees in the bargaining unit, by notice in writing require the employer to commence bargaining collectively, or

(b) the employer may by notice in writing require the bargaining agent to commence bargaining collectively,

with a view to the conclusion, renewal or revision of a collective agreement.

(2) Notice to bargain collectively may be given When notice may be given.

(a) where no collective agreement or arbitral award is in force and no request for arbitration has been made by either of the parties in accordance with this Ordinance at any time, and

(b) where a collective agreement or arbitral award is in force, within the period of two months before the agreement or award ceases operate.

WHERE NOTICE GIVEN.

41. Where notice to bargain collectively has been given, the bargaining agent and the officers designated to represent the employer shall, without delay, but in any case within twenty days after the notice was given or within such further time as the parties may agree, meet and commence to bargain collectively in good faith and make every reasonable effort to conclude a collective agreement. Commencement of collective bargaining.

Continuation
in force of
terms and
conditions
of employ-
ment.

42. Where notice to bargain collectively has been given, any term or condition of employment applicable to the employees in the bargaining unit in respect of which the notice was given that may be embodied in a collective agreement and that was in force on the day the notice was given, shall remain in force and shall be observed by the employer, the bargaining agent for the bargaining unit and the employees in the bargaining unit, except as otherwise provided by any agreement in that behalf that may be entered into by the employer and the bargaining agent, until such time as

(a) in the case of a bargaining unit for which the process for resolution of a dispute is by the referral thereof to arbitration,

(i) a collective agreement has been entered into by the parties and no request for arbitration in respect of that term or condition of employment, or in respect of any term or condition of employment proposed to be substituted therefor, has been made in the manner and within the time prescribed therefor by this Ordinance, or

(ii) a request for arbitration in respect of that term or condition of employment, or in respect of any term or condition of employment proposed to be substituted therefor, has been made in accordance with this Ordinance and a collective agreement has been entered into or an arbitral award has been rendered in respect thereof, and

(b) in the case of a bargaining unit for which the process for resolution of a dispute is by the referral thereof to a conciliation board,

(i) a collective agreement has been entered into by the parties, or

(ii) a conciliation board has been established in accordance with this Ordinance and fourteen days have elapsed from the receipt by the Chairman of the report of the conciliation board.

43. (1) Within twenty days after notice to bargain collectively is given by either of the parties to collective bargaining, or within such further time as the Board may direct the employer shall furnish to the Board and the bargaining agent for the relevant bargaining unit a statement in writing of the employees or classes of employees in the bargaining unit (hereinafter in this Ordinance referred to as "designated employees") whose duties in the opinion of the employer consist in whole or in part of duties the performance of which at any particular time or after any specified period of time is or will be necessary in the interest of the safety or security of the public, or public buildings.

(2) If no objection to the statement referred to in subsection (1) is filed with the Board by the bargaining agent within such time after the receipt thereof by the bargaining agent as the Board may prescribe, such statement shall be taken to be a statement of the employees or classes of employees in the bargaining unit who are agreed by the parties to be designated employees, but where an objection to such statement is filed with the Board by the bargaining agent within the time so prescribed, the Board, after considering the objection and affording each of the parties an opportunity to make representations, shall determine which of the employees or classes of employees in the bargaining unit are designated employees.

(3) A determination made by the Board pursuant to subsection (2) is final and conclusive for all purposes of this Ordinance and shall be communicated in writing by the Chairman to the parties as soon as possible after the making thereof.

(4) Within such time and in such manner as the Board may prescribe, all employees in a bargaining unit who are agreed by the parties or determined by the Board pursuant to this section to be designated employees shall be so informed by the Board.

CONCILIATION.

44. Where the employer or a bargaining agent advises the Board by notice in writing of the inability of the parties to reach agreement on any term or condition of employment that may be embodied in a collective agreement and that it

desires the assistance of a conciliator in reaching agreement, the Chairman may appoint a conciliator who shall, forthwith after his appointment, confer with the parties and endeavour to assist them in reaching agreement.

Report of conciliator.

45. A conciliator shall, within fourteen days from the date of his appointment or within such longer period as the Chairman may determine, report his success or failure to the Chairman.

**COLLECTIVE AGREEMENTS:
AUTHORITY TO ENTER INTO AGREEMENT.**

Authority to enter into collective agreement.

46. The Commissioner may, in such manner as may be provided for by any rules or procedures determined by him pursuant to the *Financial Administration Ordinance*, enter into a collective agreement with the bargaining agent for a bargaining unit applicable to employees in that bargaining unit.

PROVISIONS OF COLLECTIVE AGREEMENT.

Time within which agreement to be implemented.

47. (1) The provisions of a collective agreement shall, subject to the appropriation by or under the authority of the Territorial Council of any moneys that may be required by the employer therefor, be implemented by the parties,

(a) where a period within which the collective agreement is to be implemented is specified in the collective agreement, within that period, and

(b) where no period for implementation is so specified

(i) within a period of sixty days from the date of its execution, or

(ii) within such longer period as may, on application by either party to the agreement, appear reasonable to the Board.

No term or condition to be included requiring legislative implementation.

(2) No collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or condition of employment or the establishment of any new term or condition of employment,

(a) the alteration or elimination of which or the establishment of which, as the case may be, would require or have the effect of re-

quiring the enactment or amendment of any legislation by the Territorial Council except for the purpose of appropriating moneys required for its implementation, or

- (b) that has been or may be as the case may be, established pursuant to any enactment of the Territorial Council or Parliament of Canada except the *Public Service Ordinance*.

DURATION AND EFFECT.

48. (1) A collective agreement has effect in respect of a bargaining unit on and from, When agreement effective.

- (a) where an effective date is specified, that day, and
 (b) where no effective date is specified, the first day of the month next following the month in which the agreement is executed.

(2) Where a collective agreement

- (a) contains no provision as to its term, or
 (b) is for a term of less than one year,

Where no provision as to term of agreement.

the collective agreement shall be deemed to be for a term of one year from the day on and from which it has effect pursuant to subsection (1).

(3) Any collective agreement entered into within the period of one year from the date when this Ordinance comes into force shall be deemed to be for a term of two years from the day on and after which it has effect pursuant to subsection (1).

(4) Nothing in subsection (2) shall be construed to prevent the amendment or revision of any provision of a collective agreement, other than a provision relating to the term of the collective agreement, that, under the agreement, may be amended or revised during the term thereof. Saving provision where agreement provides for amendment.

49. A collective agreement is, subject to and for the purposes of this Ordinance, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on and from which it has effect pursuant to subsection (1) of section 48. Binding effect of agreement.

50. (1) Where the employer and the bargaining agent for a bargaining unit have, in accordance with section 41, bargained collectively in good faith with a view to concluding a collective agreement but have failed to reach agreement, either party may inform the Chairman that negotiations have broken down and request the Chairman to declare that a deadlock exists.

(2) (a) When, in accordance with subsection (1), one of the parties has advised the Chairman that negotiations have broken down or that a deadlock exists, the Chairman may investigate the circumstances and request the parties to resume collective bargaining,

(b) upon being satisfied that the parties have bargained in good faith and that a deadlock exists, the Chairman shall forthwith by notice in writing to the parties declare that a dispute exists.

51. (1) Within five days after the bargaining agent for a bargaining unit has received the notice in writing referred to in subsection (2) of section 50, it shall, in such manner as may be prescribed, specify which of either of the processes described in paragraph (s) of section 2 shall be the process for resolution of any dispute to which it is a party in respect of the bargaining unit.

(2) Where the dispute resolution process has been specified by a bargaining agent, the Chairman shall forthwith notify the employer of the specification.

(3) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) shall be the process applicable to that bargaining unit for the resolution of all disputes from the day on which the process is specified until another notice to bargain collectively may be given.

PROVISIONS APPLICABLE TO RESOLUTION OF DISPUTES.

52. Where the employer and the bargaining agent for a bargaining unit have bargained collectively in good faith with a view to concluding a collective agreement but have failed to reach agreement,

Provisions of Ordinance applicable depending on process for resolution of dispute.

- (a) if the process for resolution of a dispute applicable to the bargaining unit is by the referral thereof to arbitration, sections 53 to 65 apply to the resolution of the dispute, and
- (b) if the process for resolution of a dispute applicable to the bargaining unit is by the referral thereof to a conciliation board, sections 66 to 77 apply to the resolution of the dispute.

53. (1) Where a bargaining agent has specified in accordance with subsection (1) of section 51 that the dispute resolution process applicable to a bargaining unit shall be by the referral thereof to arbitration, either party may by notice in writing to the Chairman given

- (a) at any time, where no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or
- (b) not later than seven days after any collective agreement is entered into by the parties, in any other case,

request arbitration in respect of that term or condition of employment.

(2) Where arbitration is requested by notice under subsection (1), the party making the request shall

Notice to be given.

- (a) specify in the notice the terms and conditions of employment in respect of which it requests arbitration and its proposals concerning the award to be made by the arbitrator in respect thereof, and
- (b) annex to the notice a copy of any collective agreement entered into by the parties.

54. (1) Where notice under section 53 is received by the Chairman from any party requesting arbitration, the Chairman shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the Chairman by notice in writing, of any

Request for arbitration by other party.

matter, additional to the matters specified in the notice under section 53, that was a subject of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration.

Notice to include proposal concerning award.

(2) Where arbitration in respect of any matter is requested by notice under subsection (1), the party making the request shall include in the notice its proposal concerning the award to be made by the arbitrator in respect thereof.

55. (1) Where, in respect of any matter in dispute, the employer or the bargaining agent, or both, have requested arbitration, the Chairman shall, within a period of fourteen days from the date of the notice under subsection (1) of section 53 requesting arbitration,

- (a) appoint an arbitrator who shall proceed immediately to a consideration of the matter, and
- (b) send to the parties and to the arbitrator a copy of the notice under section 53 and of any notice under section 54.

Qualifications for membership.

(2) A person is not eligible to hold office as an arbitrator if, under subsection (1) of section 9, he would not be eligible to be a member of the Board, or if he is a member of the Board.

Idem.

(3) No person shall act as arbitrator in respect of any matter referred to arbitration, if he has at any time since a day six months before the day of his appointment acted in respect of any matter concerning employer-employee relations as a solicitor, counsel or agent of the employer or of any employee organization that has any interest in the matter referred to arbitration.

CONSIDERATION OF DISPUTE AND AWARD.

Matters constituting terms of reference.

56. (1) Subject to section 59, the matters in dispute specified in the notice under section 53 and in any notice under section 54 sent by the Chairman to the arbitrator constitute the terms of reference of the arbitrator in rela-

tion to the request for arbitration, and the arbitrator shall, after considering the matters in dispute together with any other matter that the arbitrator considers necessarily incidental to the resolution of the matters in dispute, render an arbitral award in respect thereof.

(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the arbitrator, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the arbitrator shall be deemed not to include that matter and no arbitral award shall be rendered by the arbitrator in respect thereof.

Where agreement subsequently reached.

57. In the conduct of proceedings before him and in rendering an arbitral award in respect of a matter in dispute the arbitrator shall consider

Factors to be taken into account by Arbitration.

- (a) the needs of the public service for qualified employees;
- (b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the arbitrator may consider relevant;
- (c) the need to maintain appropriate relationships in the conditions of employment as between different class levels within an occupation and as between occupations in the public service;
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and
- (e) any other factor that to him appears to be relevant to the matter in dispute.

58. (1) Subject to this Ordinance and any regulations made by the Commissioner in respect thereof, the arbitrator shall determine his own procedure but shall give full opportunity to both parties to present evidence and make submissions to him.

Procedure governing hearing and determination of disputes.

Powers of Arbitration.

(2) The arbitrator has all the powers of the Board set out in paragraphs (a) to (e) of section 18 and, in addition, may authorize any person to exercise any of the powers of the arbitrator set out in paragraphs (b) to (e) of section 18 and report to the arbitrator thereon.

SUBJECT MATTER OF ARBITRAL AWARD.

Subject matter of arbitral award.

59. (1) Subject to this section, an arbitral award may deal with rates of pay, hours of work, leave entitlements, and other terms and conditions of employment directly related thereto.

(2) Subsection (2) of section 47 applies, *mutatis mutandis*, in relation to an arbitral award.

(3) No arbitral award shall deal with the standards, procedures or processes governing the appointments, appraisal, promotion, demotion, transfer, lay-offs, release or discipline of employees, or with the classification of positions or with any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof.

Award to be limited to bargaining unit.

(4) An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made.

MAKING OF ARBITRAL AWARD.

60. (1) An arbitral award shall be signed by the arbitrator and copies thereof shall thereupon be transmitted to the parties to the dispute and to the Chairman.

Form of award.

(2) An arbitral award shall, wherever possible, be made in such form

- (a) as will be susceptible of being
 - (i) read and interpreted with; or
 - (ii) annexed to and published with, any collective agreement dealing with other terms and conditions of employment of the employees in the bargaining unit in respect of which the arbitral award applies; and

- (b) as will enable its incorporation into and implementation by regulations, by-laws, directives or other instruments that may be required to be made or issued by the employer or the relevant bargaining agent in respect thereof.

DURATION AND OPERATION OF ARBITRAL AWARDS.

61. (1) An arbitral award is, subject to and for the purposes of this Ordinance binding on the employer and the bargaining agent that is a party thereto and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on which the award is rendered or such later day as the arbitrator may determine.

Binding effect of arbitral award.

(2) Subject to subsection (3), a provision of an arbitral award made in respect of a term or condition of employment may be retroactive to the extent that it is capable of being retroactively applied, in whole or in part, to a day prior to the day on and from which the arbitral award becomes binding on the parties but not before the day on which notice to bargain collectively was given by either party.

(3) Where notice to bargain collectively is given by either party before the termination date of an existing collective agreement or arbitral award, the provisions of an arbitral award may be made retroactive only to the termination date of such collective agreement or arbitral award.

(4) Where, in relation to any or all of the provisions of an arbitral award made in respect of terms and conditions of employment, there was previously in effect a collective agreement or arbitral award, the previous collective agreement or the previous arbitral award is displaced, to the extent of any conflict, for the term, determined in accordance with section 62, for which the subsequent award is operative.

Effect on previous collective agreement or award.

62. (1) The arbitrator shall, in respect of every arbitral award, determine and specify therein the term for which the arbitral award is to be operative and, in making its determination, he shall take into account,

Term of arbitral award.

- (a) where a collective agreement applicable to the bargaining unit is in effect or has been entered into but is not yet in effect, the term of that collective agreement, and
- (b) where no collective agreement applying to the bargaining unit has been entered into,
 - (i) the term of any previous collective agreement that applied to the bargaining unit, or
 - (ii) the term of any other collective agreement that to the arbitrator appears relevant.

Limitation on term of award.

(2) No arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (a) or (b) of subsection (1), shall be for a term of less than one year or more than two years from the day on and from which it becomes binding on the parties.

IMPLEMENTATION OF ARBITRAL AWARDS.

Implementa-tion of awards.

63. The rates of pay, hours of work, leave entitlements, and other terms and conditions of employment directly related thereto that are the subject of an arbitral award shall, subject to the appropriation by or under the authority of the Territorial Council of any moneys that may be required by the employer therefor, be implemented by the parties within a period of ninety days from the date on and from which it becomes binding on the parties or within such longer period as, on application to the Board by either party, appears reasonable to the Board.

COMPLETION AND VARIATION OF ARBITRAL AWARDS.

Reference back to Arbitration.

64. Where in respect of an arbitral award it appears to either of the parties that the arbitrator has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within fourteen days from the day the award is rendered, refer the matter back to the arbitrator, and the arbitrator shall thereupon deal with the matter in the same manner as in the case of a matter in dispute referred to it under section 55.

Authority to amend or vary award.

65. The arbitrator may, upon application jointly by both parties to an arbitral award or on referral by the

Chairman amend, alter or vary any provision of that award where it is made to appear to the arbitrator that the amendment, alteration or variation thereof is warranted having regard to circumstances that have arisen since the making of the award or of which the arbitrator did not have notice at the time of the making thereof, or having regard to such other circumstances as the arbitrator deems relevant.

CONCILIATION BOARDS:

REQUEST FOR ESTABLISHMENT OF CONCILIATION BOARD.

66. Where a bargaining agent has specified in accordance with subsection (1) of section 51 that the dispute resolution process applicable to a bargaining unit shall be by the referral thereof to a conciliation board, either party may, by notice in writing to the Chairman, request the establishment of a conciliation board for the investigation and conciliation of the dispute.

67. (1) Where in respect of a dispute, either party has requested the establishment of a conciliation board, or where it appears to the Chairman that the establishment of such board may serve the purpose of assisting the parties in reaching agreement, the Chairman shall establish a board for the investigation and conciliation of the dispute.

(2) Notwithstanding subsection (1), no conciliation board shall be established for the investigation and conciliation of a dispute in respect of a bargaining unit until

- (a) the parties have agreed or the Board has determined pursuant to section 43 the employees or classes of employees in the bargaining unit who are designated employees, and
- (b) any conciliator that may have been appointed under section 44 has made a final report to the Chairman that he has been unable to assist the parties in reaching agreement.

68. (1) A conciliation board shall consist of three members appointed in the manner provided in this section.

Constitution
of concil-
iation Board.
Appointment
of members.

(2) When a conciliation board is to be established, the Chairman shall by notice require each of the parties, within seven days from the receipt of such notice, to nomi-

nate one person each to be a member of the conciliation board, and upon receipt of the nominations within those seven days, the Chairman shall appoint the persons so nominated as members of the conciliation board.

Idem. (3) If either of the parties fails to nominate a person within seven days from the receipt by it of the notice referred to in subsection (2), the Chairman shall appoint as a member of the conciliation board a person he deems fit for the purpose, and such member shall be deemed to have been appointed on the nomination of that party.

Appointment of Chairman. (4) The two members appointed under subsection (2) or (3) shall, within five days after the day on which the second of them was appointed, nominate a third person who is ready and willing to act, to be chairman of the conciliation board, and the Chairman shall thereupon appoint such person as the chairman of the conciliation board.

Idem. (5) If the two members appointed under subsection (2) or (3) fail to make such a nomination within five days after the second of them was appointed, the Chairman shall forthwith appoint as the chairman of the conciliation board a person he deems fit for the purpose.

Qualifications of members. (6) The provisions of subsections (2) and (3) of section 55 apply *mutatis mutandis* in relation to the qualification of persons to act as members of a conciliation board.

Allowances payable to members. (7) The members of a conciliation board are entitled to be paid such *per diem* or other allowances with respect to the performance of their duties under this Ordinance as may be fixed by the Commissioner.

Vacancies. **69.** Where any vacancy occurs in the membership of a conciliation board before the board has reported its findings and recommendations to the Chairman, the vacancy shall be filled by the Chairman by appointment in the manner provided in section 68 for the selection of the person in respect of whom the vacancy arose.

Notification of establishment of conciliation board. **70.** (1) Forthwith upon the establishment of a conciliation board, the Chairman shall notify the parties of its establishment and of the names of its members.

(2) Upon the notification of the parties by the Chairman of the establishment of a conciliation board, it shall be conclusively presumed that the conciliation board described in the notice has been established in accordance with this Ordinance, and no order shall be made or process entered, and no proceedings shall be taken in any court, to question the establishment of the conciliation board or to review, prohibit or restrain any of its proceedings.

Effect of notification.

TERMS OF REFERENCE.

71. Forthwith upon the establishment of a conciliation board, the Chairman shall deliver to the conciliation board a statement setting forth the matters on which the board shall report its findings and recommendations to the Chairman, and the Chairman may, either before or after the report to him of its findings and recommendations, amend such statement by adding thereto or deleting therefrom any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement.

Terms of reference of conciliation board.

PROCEDURE.

72. (1) A conciliation board shall, as soon as possible after the receipt by it of the statement referred to in section 71, endeavour to bring about agreement between the parties in relation to the matters set forth in the statement.

Duties of conciliation board.

(2) Except as otherwise provided in this Ordinance, a conciliation board may determine its own procedure, but shall give full opportunity to both parties to present evidence and make representations.

Rules of Procedure.

(3) The chairman of a conciliation board may, after consultation with the other members of the board, fix the times and places of its sittings and shall notify the parties of the times and places so fixed.

Sittings.

(4) The chairman of a conciliation board and one other member constitute a quorum, but in the absence of a member at any sitting of the board the other members shall not proceed unless the absent member has been given reasonable notice of the sitting.

Quorum and absence of members.

(5) A decision of a majority of the members of a conciliation board on any matter referred to it is a decision of the board thereon.

Decision.

Report of
Proceedings.

(6) The chairman of a conciliation board shall forward to the Chairman a detailed statement signed by him of the sittings of the conciliation board and of the members and witnesses present at each sitting.

Powers of
conciliation
board.

73. A conciliation board has all the powers of the Board set out in paragraphs (a) to (e) of section 18 and, in addition, may authorize any person to exercise any of the powers of the conciliation board as set out in paragraphs (b) to (e) of Section 18, and report to the conciliation board thereon.

REPORT.

Report to
Chairman.

74. (1) A conciliation board shall, within fourteen days after the receipt by it of the statement referred to in section 71 or within such longer period as may be agreed upon by the parties or determined by the Chairman, report its findings and recommendations to the Chairman.

(2) Subsection (2) of section 47 applies, *mutatis mutandis*, in relation to a recommendation in a report of a conciliation board.

(3) No report of a conciliation board shall contain any recommendation concerning the standards, procedure or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off, release or discipline of employees, or with the classification of positions.

Reconsideration of
matters
contained
in report.

(4) After a conciliation board has reported to the Chairman its findings and recommendations on the matters set forth in the statement referred to in section 71, the Chairman may direct it to reconsider and clarify or amplify its report or any part thereof, or to consider and report on any matter added to such statement pursuant to that section, except that in any such case the report of the conciliation board shall be deemed to have been received by the Chairman notwithstanding that the reconsidered report or the report on the added matter, as the case may be, has not been received by him.

Copy of
report to be
sent to
parties.

75. On receipt of the report of a conciliation board, the Chairman shall forthwith cause a copy thereof to be sent to the parties and may cause the report to be published in such manner as he sees fit.

76. No report of a conciliation board, and no testimony or proceedings before a conciliation board, are receivable in evidence in any court in the Territory except in the case of a prosecution for perjury. Report as evidence.

77. Where at any time before a conciliation board has made its report the parties so agree in writing, a recommendation made by a conciliation board shall be binding on the parties, subject to and for the purposes of this Ordinance and shall be given effect to accordingly. Binding effect where agreed by parties.

GRIEVANCES:

RIGHT TO PRESENT GRIEVANCES.

- 78.** (1) Where any employee feels himself to be aggrieved Right of employee to present grievance.
- (a) by the interpretation or application in respect of him of
- (i) a provision of an Ordinance, or of a regulation, by-law, direction or other instrument made or issued by the employer, dealing with terms and conditions of employment, or
- (ii) a provision of a collective agreement or an arbitral award, or
- (b) as a result of any occurrence or matter affecting his terms and conditions of employment, other than a provision described in subparagraph (i) or (ii) of paragraph (a).

in respect of which no administrative procedure for redress is provided in or under an Ordinance, he is entitled, subject to subsection (2), to present the grievance at each of the levels, up to and including the final level, in the grievance process provided for by this Ordinance.

(2) An employee is not entitled to present any grievance relating to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award unless he has the approval of and is represented by the bargaining agent for the bargaining unit to which the collective agreement or arbitral award applies, or any grievance relating to any action taken pursuant to an instruction, direction or regulation given or made as described in section 101. Limitation.

Right to be represented by employee organization.

(3) An employee who is not included in a bargaining unit for which an employee organization has been certified as bargaining agent may seek the assistance of and, if he chooses, may be represented by any employee organization in the presentation of a grievance.

Idem.

(4) No employee who is included in a bargaining unit for which an employee organization has been certified as bargaining agent may be represented by any employee organization, other than the employee organization certified as such bargaining agent, in the presentation or reference to adjudication of a grievance.

(5) Notwithstanding anything contained in subsections (1) to (4) the bargaining agent may present a grievance to the employer on behalf of one or more members of the bargaining unit with respect to the interpretation or application of a collective agreement or arbitral award in accordance with the grievance procedure provided for in this Ordinance.

79. (1) Where an employee has presented a grievance up to and including the final level in the grievance process with respect to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award, and his grievance has not been dealt with to his satisfaction, he may, subject to subsection (2) refer the grievance to adjudication.

(2) The employee is not entitled to refer the grievance to adjudication unless the bargaining agent for the bargaining unit to which the collective agreement or arbitral award applies signifies in prescribed manner

- (a) its approval of the reference of the grievance to adjudication, and
- (b) its willingness to represent the employee in the adjudication proceedings.

(3) An employee is not entitled to refer a grievance respecting release for cause during or at the end of his probationary period to adjudication.

(4) A grievance submitted by the bargaining agent to the employer in accordance with subsection (5) of section 78 may be referred to an adjudicator who shall deter-

mine the question and whose decision upon the matter shall be final and binding.

80. (1) The Board shall appoint such officers, to be called adjudicators, as may be required to hear and adjudicate upon grievances referred to adjudication under this Ordinance or under section 25 of the *Public Service Ordinance*.

(2) The Chairman shall administer the system of grievance adjudication established under this Ordinance and may designate one of the adjudicators appointed under this section to administer the system of grievance adjudication established under this Ordinance on his behalf.

(3) Subsections (2) and (3) of section 55 apply *mutatis mutandis* in relation to the eligibility of a person to hold office or act as an adjudicator or to be named as an adjudicator in a collective agreement, in respect of any grievance referred to adjudication.

(4) An adjudicator appointed pursuant to this section has in relation to the hearing of any grievance referred to him under this Ordinance the power

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as he deems requisite to the full investigation and consideration of matters within his jurisdiction in the same manner and to the same extent as a Judge of the Court;
- (b) to administer oaths and affirmations;
- (c) to receive and accept such evidence and information on oath, affidavit or otherwise as in his discretion he sees fit, whether admissible in a court of law or not.

81. (1) Where a grievance has been referred to adjudication, the aggrieved employee shall, in the manner prescribed, notify the Chairman and the employer and shall specify in the notice whether an adjudicator is named in the applicable collective agreement.

(2) Where a grievance has been referred to adjudication and the aggrieved employee has notified the Chair-

man and the employer as required by subsection (1), the Chairman shall, in the manner and within the time prescribed,

- (a) where an adjudicator is named in a collective agreement, refer the matter to the adjudicator so named, and
- (b) in any other case, refer the matter to an adjudicator selected by him.

JURISDICTION OF ADJUDICATOR.

Compliance with procedures in grievance process.

82. (1) Subject to any regulation made by the Commissioner under paragraph (d) of subsection (1) of section 86, no grievance shall be referred to adjudication and no adjudicator shall hear or render a decision on a grievance until all procedures established for the presenting of the grievance up to and including the final level in the grievance process have been complied with.

No decision requiring amendment of agreement or award.

(2) No adjudicator shall, in respect of any grievance, render any decision thereon the effect of which would be to require the amendment of a collective agreement or an arbitral award.

Binding effect of decision at final level in grievance process.

(3) Where

- (a) a grievance has been presented up to and including the final level in the grievance process, and
- (b) the grievance is not one that under section 79 may be referred to adjudication,

the decision on the grievance taken at the final level in the grievance process is final and binding for all purposes of this Ordinance and no further action under this Ordinance may be taken thereon.

DECISION OF ADJUDICATOR.

Hearing of grievance.

83. (1) Where a grievance is referred to adjudication, the adjudicator shall give both parties to the grievance an opportunity of being heard.

Decision on grievance.

(2) After considering the grievance, the adjudicator shall render a decision thereon and

- (a) send a copy thereof to each party and his or its representative, and to the bargaining

agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and

(b) deposit a copy of the decision with the Chairman.

(3) Where a decision on any grievance referred to adjudication requires any action by or on the part of the employer, the employer shall take such action.

Implementa-
tion of
decision by
employer.

(4) Where a decision on any grievance requires any action by or on the part of an employee or a bargaining agent or both of them, the employee or bargaining agent, or both, as the case may be, shall take such action.

Action to be
taken by
employee or
or bargain-
ing agent.

(5) The Board may, in accordance with section 17, take such action as is contemplated by that section to give effect to the decision of an adjudicator on a grievance but shall not enquire into the basis or substance of the decision.

Powers of
Board with
respect to
decision on
grievance.

EXPENSES OF ADJUDICATION.

84. (1) Where an adjudicator is named in a collective agreement, the method of determining his remuneration and of defraying such expenses as he may incur shall be as established in the collective agreement naming the adjudicator, but if the agreement does not specify such method, the named adjudicator's remuneration and his expenses shall be borne by the parties.

Where
adjudicator
named in
collective
agreement.

(2) Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, the bargaining agent is liable to pay and shall remit to the Board such part of the costs of the adjudication as may be determined by the Board.

(3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Commissioner by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person.

Recovery.

85. (1) Where

(a) the employer or the bargaining agent seeks to enforce an obligation that is alleged to arise out of a collective agreement or arbitral award, and

- (b) the obligation, if any, is not an obligation the enforcement of which may be the subject of a grievance of an employee in the bargaining unit to which the collective agreement or arbitral award applies,

either the employer or the bargaining agent may, in prescribed manner, refer the matter to adjudication, and the Chairman shall refer the matter to an adjudicator selected by him who shall hear and determine whether there is an obligation as alleged and whether, if there is, there has been a failure to observe or to carry out the obligation.

(2) The adjudicator selected in the manner provided in subsection (1) shall hear and determine the matter so referred to him as though it were a grievance, and subsection (2) of section 82 and sections 83 and 84 apply to its hearing and determination.

REGULATIONS RESPECTING GRIEVANCES.

Regulations re procedures for presentation of grievances.

86. (1) The Commissioner may, on the recommendation of the Board, make regulations in relation to the procedure for the presenting of grievances, including regulations respecting

- (a) the manner and form of presenting a grievance;
- (b) the maximum number of levels of officers of the employer to whom grievances may be presented;
- (c) the time within which a grievance may be presented up to any level in the grievance process including the final level;
- (d) the circumstances in which any level below the final level in the grievance process may be eliminated; and
- (e) in any case of doubt, the circumstances in which any occurrence or matter may be said to constitute a grievance.

Application of regulations.

(2) Any regulations made by the Commissioner under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such

regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

(3) The Commissioner, on the recommendation of the Board, may make regulations in relation to the adjudication of grievances, including regulations respecting

Regulations re adjudication of grievances.

- (a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the Chairman to an adjudicator;
- (b) the procedure to be followed by adjudicators with regard to the powers vested in him by subsection (4) of section 80;
- (c) the form of decisions rendered by adjudicators.

(4) For the purposes of any provision of this Ordinance respecting grievances, the employer shall designate the person whose decision on a grievance constitutes the final or any level in the grievance process and the employer shall, in any case of doubt, by notice in writing advise any person wishing to present a grievance, or the Chairman, of the person whose decision thereon constitutes the final or any level in such process.

Employer to designate persons at final or any level in grievance process.

REVIEW OF ORDERS.

87. (1) Except as provided in this Ordinance, every order, award, direction, decision, declaration or ruling of the Board, an arbitrator or an adjudicator is final and shall not be questioned or reviewed in any court.

Orders not subject to review by court.

(2) No order shall be made or process entered, and no proceedings shall be taken in any court, whether by way of injunction, certiorari, prohibition, *quo warranto* or otherwise, to question, review, prohibit or restrain the Board, an arbitrator or an adjudicator in any of its or his proceedings.

No review by injunction, etc.

RIGHTS AND PROHIBITIONS RELATING TO STRIKES.

Participa-
tion by
employee
in strike.

- 88. (1) No employee shall participate in a strike**
- (a) who is not included in a bargaining unit for which a bargaining agent has been certified by the Board;
 - (b) who is included in a bargaining unit for which the process for resolution of a dispute is by the referral thereof to arbitration; or
 - (c) who is a designated employee.
- (2) No employee who is not an employee described in subsection (1) shall participate in a strike**
- (a) where a collective agreement applying to the bargaining unit in which he is included is in force, or
 - (b) where no collective agreement applying to the bargaining unit in which he is included is in force, unless
 - (i) a conciliation board for the investigation and conciliation of a dispute in respect of that bargaining unit has been established and fourteen days have elapsed from the receipt by the Chairman of the report of the conciliation board, and
 - (ii) a notice of intention to strike and the time the strike will commence has been delivered to the employer by the bargaining agent not less than forty-eight hours before the commencement of the strike.
- (3) Where subsections (1), (2) and (3) are complied with, employees may strike and during the continuance of the strike**
- (a) the employer shall not replace the striking employees or fill their positions with any other employees; and
 - (b) no employee shall picket, parade or in any manner demonstrate in or near any place of business of the employer.

89. No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel or procure the declaration or authorization of a strike of employees or the participation of employees in a strike, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 88.

Declaration of authorization of strike

90. (1) Where it is alleged by the employer that an employee organization has declared or authorized a strike of employees, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 88, the employer may apply to the Board, for a declaration that the strike is or would be unlawful and the Board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration.

Application for declaration of strike as unlawful.

(2) Where it is alleged by a bargaining agent for a bargaining unit that the participation of employees included in the bargaining unit in a strike authorized or declared, or proposed to be authorized or declared, by the bargaining agent is not or would not be in contravention of section 88, the bargaining agent may apply to the Board for a declaration that the strike is or would be lawful and the Board, after affording an opportunity to the employer to be heard on the application, may make such a declaration.

Application for declaration of strike as lawful.

91. (1) Every employee who contravenes section 88 is guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

Offences and punishment

(2) Every officer or representative of an employee organization who contravenes section 89 is guilty of an offence and liable on summary conviction to a fine not exceeding \$300.

Idem.

(3) Every employee organization that contravenes section 89 is guilty of an offence and liable on summary conviction to a fine not exceeding \$10.00 for each employee in the relevant bargaining unit for each day that any strike declared or authorized by it in contravention of that section is or continues in effect.

Prosecution of employee organization

92. A prosecution for an offence under section 91 may be brought against an employee organization and in the name of that organization, and for the purposes of any such prosecution an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the scope of his authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization.

93. No prosecution arising out of an alleged failure by any person to comply with this Ordinance and no prosecution for an offence under this Ordinance shall be instituted except with the consent of the Board.

PROTECTION OF MEMBERS AND STAFF.

Evidence respecting information obtained under ordinance.

94. No member of the Board, or of a conciliation board and no arbitrator or adjudicator, conciliator or officer or employee of or person appointed by the Board shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Ordinance.

WITNESS FEES.

Payment of witness fees.

95. A person who is summoned by the Board, the arbitrator or a conciliation board to attend as a witness in any proceedings thereof taken pursuant to this Ordinance and who so attends is entitled to be paid an allowance for expenses determined in accordance with the scale for the time being in force with respect to witnesses in civil suits in the Court.

OATHS AND AFFIRMATIONS.

Oath or affirmation to be taken.

96. A person appointed under this Ordinance shall, before entering upon his duties, take an oath or affirmation in the form prescribed before any person authorized by the Commissioner to take such oath or affirmation.

PROVISION OF FACILITIES AND STAFF.

Facilities and staff.

97. The Commissioner shall provide the Board, an arbitrator, a conciliation board and an adjudicator with quarters and staff and such other facilities as are neces-

sary to enable it or him to carry out its or his functions under this Ordinance.

SUPERANNUATION.

98. Unless the Commissioner otherwise orders in any case or class of cases, a person appointed under this Ordinance shall be deemed not to be employed in the Public Service for the purposes of the *Public Service Superannuation Act*.

Application of Public Service Superannuation Act.

BASIC RIGHTS AND PROHIBITIONS.

RIGHTS.

99. Every employee may be a member of an employee organization and may participate in the lawful activities of the employee organization of which he is a member.

Right of membership in employee organization.

NOTICES.

100. Where a notice or other document is required to be filed or made by this Ordinance, such notice or other document shall be deemed to be filed or made

- (a) at the time it is received by the Board, or
- (b) where it is mailed by registered mail and addressed to the Board at the time it is mailed.

SAVING PROVISION.

101. (1) Nothing in this or any other Ordinance shall be construed to require an employee to do or refrain from doing anything contrary to any instruction, direction or regulation given or made by or on behalf of the Commissioner in the interest of the safety or security of the Territory.

Limitation respecting matters involving safety or security.

(2) For the purposes of subsection (1), any order made by the Commissioner is conclusive proof of the matters stated therein in relation to the giving or making of any instruction, direction or regulation by or on behalf of the Commissioner in the interest of the safety or security of the Territory.

Order to be conclusive proof.

REPORT TO TERRITORIAL COUNCIL.

102. As soon as possible after the end of each year, the Board shall prepare and submit to the Commissioner a report on the administration of this Ordinance during

Annual report.

that year and the Commissioner shall lay the Board's report before the Territorial Council within fifteen days after receipt thereof or, if Territorial Council is not then sitting, on any of the first fifteen days next thereafter that the Territorial Council is sitting.

Reference
to Courts.

103. Where any question of law or jurisdiction arises in connection with a matter that has been referred to an arbitrator or to an adjudicator pursuant to this Ordinance the arbitrator or adjudicator may, at any stage of the proceedings and shall, if so directed by a Judge, state in the form of a special case for the opinion of a Judge, any such question of law or jurisdiction arising but the stating of such case shall not operate to suspend any proceedings in connection with that matter unless the arbitrator or adjudicator or a Judge determines that the nature of the question warrants a suspension of the proceedings.

Coming Into
force.

104. This Ordinance shall come into force on a day to be fixed by the Commissioner.

CHAPTER 2

ORDINANCE OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AUTHORIZE THE
 COMMISSIONER OF THE YUKON TERRITORY TO
 ENTER INTO AND EXECUTE AN AGREEMENT
 WITH THE GOVERNMENT OF CANADA RESPECTING
 FRIENDSHIP CENTRES.

(Assented to April 3, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. This Ordinance may be cited as the *Friendship Centres Agreement Ordinance*. Short title.
2. The Commissioner may, on behalf of the Government of the Yukon Territory, enter into an agreement with the Government of Canada, to provide for the payment by the Government of Canada to the Government of the Yukon Territory of contributions in respect of costs incurred by the Yukon Territory in the granting of funds towards the non-capital expenditures of Friendship Centres in the Yukon Territory. Commissioner may execute Agreement.
3. Any agreement made under this Ordinance may be amended Amendment of Agreement.
 - (a) with respect to the provisions of the agreement in respect of which a method of amendment is set out in the agreement, by that method, or
 - (b) with respect to any other provision of the agreement, by the mutual consent of the parties thereto.
4. The Commissioner is authorized to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon Territory under the agreement made under this Ordinance. Commissioner may implement Agreement.

CHAPTER 3

ORDINANCES OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO REPEAL AN ORDINANCE FOR
THE INCORPORATION OF CO-OPERATIVE
ASSOCIATIONS AND TO PROVIDE FOR
THEIR REGULATION

(Assented to April 3, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

Repeal

- 1.** An Ordinance for the Incorporation of Co-operative Associations and to Provide for their Regulation, being Chapter 23 of the *Revised Ordinances of the Yukon Territory (1958)*, is hereby repealed.

CHAPTER 4

ORDINANCES OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AMEND AN ORDINANCE
RESPECTING CREDIT UNIONS

R.O.Y.T.
1958 c.25
1965 (2nd)
c 2.

(Assented to April 3, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Subsection (1) of Section 30 of the *Credit Union Ordinance* is repealed and the following substituted therefor:

“(1) The credit committee shall require security to be given on all loans in excess of *One Thousand dollars* and the security to be taken in each case shall be determined by the committee.”

CHAPTER 5

ORDINANCE OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AMEND AN ORDINANCE
RESPECTING THE CONSERVATION OF
GAME IN THE YUKON TERRITORY

(Assented to April 3, 1970)

1959 (1st)
c. 3
1959 (2nd)
c. 4
1961 (2nd)
c. 10
1964 (1st)
c. 10
1965 (1st)
c. 5
1967 (1st)
c. 11
1969 (2nd)
c.9

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Section 4 of the *Game Ordinance* is amended by adding thereto the following new subsection to read as follows:

“May dis-
pose of
improve-
ments.”

“(4) the holder of a certificate of registration of a guiding area may remove, sell, transfer or assign any movable improvements made or lawfully acquired by him on the guiding area.”

CHAPTER 6

ORDINANCE OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AMEND
THE LOW COST HOUSING ORDINANCE

(Assented to April 16, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

O. Y. T.
1962 (1st)
c. 1
1963 (1st)
c. 8;
1966 (1st)
c. 7
1966 (2nd)
c. 11
1967 (1st)
c. 14.

1. Paragraph (b) of subsection (3) of Section 3 of the *Low Cost Housing Ordinance* is hereby repealed and the following substituted therefor:

“(b) not exceed twelve thousand dollars in respect of any one house;”

2. Subsection (1a) of Section 4 of the said Ordinance is hereby repealed and the following substituted therefor:

“(1a) a loan shall not be made under the authority of this section in respect of a house the estimated cost of construction of which is in excess of fifteen thousand dollars.”

CHAPTER 7

R.O.Y.T.
 c. 77
 1960 (3rd)
 c. 3
 1961 (1st)
 c. 5
 1961 (2nd)
 c. 7
 1962 (1st)
 c. 21
 1962 (6th)
 c. 8
 1963 (2nd)
 c. 9
 1964 (1st)
 c. 9
 1965 (2nd)
 c. 5
 1966 (2nd)
 c. 13
 1697 (2nd)
 c. 12
 1970 (1st)
 c. 5.

ORDINANCE OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AMEND
 THE MOTOR VEHICLES ORDINANCE

(Assented to April 3, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Paragraph (y) of Section 2 of the *Motor Vehicles Ordinance* is repealed and the following substituted therefor:

"Vehicle"

"(y) "vehicle" means a device in, upon or by which a person or thing is or may be transported or drawn upon a highway, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks but does not include a motor cycle or motorized toboggan except when used upon a highway ordinarily maintained and used for the passage of vehicles."

2. The said Ordinance is further amended by repealing Sections 49, 49A and 49B and substituting therefor the following:

"Dimming head lamps."

"49(1) Where a motor vehicle on a highway is approaching or is being approached by another vehicle proceeding in the opposite direction, and when within not less than four hundred yards of it, the driver of the motor vehicle, whether in motion or stationary, shall dim or drop the beams of its headlamps.

"Directional signal light"

(2) A motor vehicle may be equipped with lamps that may be lighted intermittently or in flashes as a signal to indicate that the vehicle is about to be turned to the right or left according as the lamps are lighted on the right or left side of the front and rear of the motor vehicle; and any such lamp that is affixed to the rear of the motor vehicle shall cast a red light.

(3) Except as authorized by this section, no person shall operate on a highway a vehicle that is equipped with any lamp that lights intermittently or in flashes.

(4) An ambulance, police vehicle or fire fighting vehicle may, when operated on a highway by an authorized person, be equipped with and use one or more lamps that cast a red light and that lights intermittently or in flashes.

(5) A vehicle designed for use as a recovery vehicle or designed for use in highway construction or as a snowplough or for highway maintenance may be equipped with one or more lamps that cast an amber light and that lights intermittently or in flashes.

(6) No person shall operate on a highway a vehicle referred to in subsection (5) that is actually engaged in the work of recovery, highway construction, snowploughing or highway maintenance unless that vehicle is showing a flashing amber light that is clearly visible in both directions on the highway.

(7) A vehicle being used by a member of the press for news gathering purposes may on the authorization of the Registrar, be equipped with one or more lamps that cast a blue light and that lights intermittently or in flashes."

"Municipal
by-laws."

3. The said Ordinance is further amended by adding to section 155 the following new paragraph:

"(p) prohibiting or regulating the use of any highway in the municipality by any vehicle or any class of vehicles."

CHAPTER 8

ORDINANCE OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AMEND
THE PUBLIC SERVICE ORDINANCE

(Assented to April 16, 1970)

R.O.Y.T.
1967 (1st)
c. 3

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. (1) Section 2 of the *Public Service Ordinance* is amended by adding immediately after paragraph (a) the following new paragraph:

“(aa) “adjudicator” means an adjudicator appointed pursuant to section 80 of the *Yukon Public Service Staff Relations Ordinance*.”

(2) Section 2 of the said Ordinance is further amended by adding immediately following paragraph (c) the following new paragraph:

“(cc) “Director of Personnel” means the officer appointed by the Commissioner to be in charge of personnel services.”

2. Section 4 of the said Ordinance is repealed and the following substituted therefor:

**“ORGANIZATION OF THE PUBLIC SERVICE
CLASSIFICATION.**

Classes. 4. (1) The Commissioner shall divide the public service into classes of employment and shall classify each position therein.

Standards. (2) The Commissioner shall define each class by reference to standards of duties, responsibilities and qualifications and shall give it an appropriate title.

Content of class. (3) Each class shall embrace all positions in a class having similar duties and responsibilities and requiring similar qualifications of persons appointed to a position in the class.

(4) The Commissioner may divide, combine, alter or abolish any class.” Amendments.

3. The said Ordinance is further amended by repealing section 6 thereof and by substituting the following therefor:

“6. The Commissioner shall establish rates of pay for each class and establish the allowances that may be paid in addition to pay.” Commissioner to fix pay and allowances.

4. The said Ordinance is further amended by repealing section 7 thereof and by substituting the following therefor:

“7. The rates of pay for classes shall consist of minimum rates, maximum rates and one or more intermediate rates, or such other rates as may in any special cases be appropriate.” Form of rates.

5. The said Ordinance is further amended by repealing section 11 thereof and by substituting the following therefor:

“11. (1) The head of a unit shall refer the statement prepared under section 10 to the Commissioner who shall classify the position of each proposed employee.” Classification.

(2) The head of a unit shall prepare a list of proposed positions showing the class title of each position and, when approved by the Commissioner, the positions constitute the establishment for the unit.” Establishments.

(3) The rate of pay applicable to a position as described on an establishment is the rate established by the Commissioner for the class within which the position is included.” Pay.

6. The said Ordinance is further amended by repealing section 17 thereof and by substituting the following therefor:

“17. The Commissioner may in relation to any position or class prescribe qualifications as to age, residence or any other matters that in his opinion are necessary or desirable having regard to the nature of the duties to be performed, but in so doing the Commissioner shall not discriminate against any person by reason of race, sex, national origin, colour or religion.” Qualifications.

7. The said Ordinance is further amended by repealing section 20 thereof and by substituting the following therefor:

Probationary period.

"20. (1) An employee shall be considered to be on probation for a period of six months from the date of his appointment.

Extension of probationary period.

(2) A head of a unit may, with the approval of the Commissioner extend the probationary period of an employee for a further period not exceeding six months.

(3) Notwithstanding subsections (1) and (2) the Commissioner may abridge or abolish the probationary period of any employee or class of employees."

8. The said Ordinance is further amended by repealing sections 24, 25, 26 and 27 and by substituting the following therefor:

"24. (1) Where a unit head is of the opinion that an employee is

- (a) incompetent in performing the duties of the position he occupies; or
- (b) incapable of performing those duties; or
- (c) guilty of misconduct;

the unit head may suspend the employee.

(2) When a unit head other than a department head suspends an employee pursuant to subsection (1) he shall forthwith make a report in writing together with the reasons for the suspension, to his department head.

(3) A suspension of an employee pursuant to subsection (1) shall not be for a greater period than two months.

25. (1) Where a department head suspends an employee or receives a report mentioned in section 24, the department head shall investigate the matter and shall give the employee an opportunity to make representations orally or in writing either personally or by counsel or agent.

(2) If the department head is satisfied as a result of the investigation that the employee is incompetent or incapable of performing the duties of the position he occupies or is guilty of misconduct he may

- (a) confirm the suspension; or
- (b) increase the period of suspension to a period not exceeding six months; or
- (c) recommend that the employee be demoted or dismissed.

(3) If, as a result of the investigation the department head is satisfied that the employee is not incompetent or incapable of performing the duties of the position he occupies or is not guilty of misconduct, he shall terminate the suspension forthwith and the employee shall be deemed not to have been suspended.

(4) Notwithstanding subsections (1) and (2) where the department head is satisfied that the incompetence, incapacity or misconduct of the employee is of a trivial nature he may terminate the period of suspension, and reprimand the employee in writing or take other appropriate action.

(5) Within two weeks of notification of the decision of the department head, the employee may submit an appeal to the Commissioner pursuant to the regulations regarding the decision of the department head.

(6) Where an appeal has been submitted under subsection 5 the Commissioner may allow the appeal, dismiss the appeal or may vary the decision of the department head.

(7) An employee may appeal the decision of the Commissioner under subsection (6) to an adjudicator appointed by the Chairman of the Yukon Public Service Staff Relations Board and for these purposes the provisions of the *Yukon Public Service Staff Relations Ordinance* shall apply *mutatis mutandis* to the Chairman and adjudicator, and the decision of the adjudicator thereon shall be final and binding.

(8) On receipt of the decision of the adjudicator the Commissioner shall issue any order or take any action necessary to implement the decision of the adjudicator.

26. (1) If no appeal is submitted with respect to a recommendation of the department head, the Commissioner may take such action with regard to the recommendation as he sees fit.

(2) If the recommendation under this section recommends the release of the employee, the Commissioner may release such employee and the employee thereupon ceases to be an employee with effect from the date fixed in the order.

27.(1) An employee is not entitled to any remuneration in respect of any period during which he is under suspension.

(2) notwithstanding subsection (1), an allowance not exceeding 50 per cent of his base pay may be made to an employee who is under suspension."

9. The said Ordinance is further amended by repealing section 30 thereof and by substituting the following therefor:

Order of laying off

"30. Where two or more persons employed in positions of the same class or class series in any unit of the public service are to be laid off, or where one person is to be laid off and there are other persons holding positions of the same class or class series in the same unit, the Commissioner shall, after considering such material and conducting such examinations, tests, interviews and investigations as he considers necessary, list the persons holding positions of the same class or class series in order of their merit, and such persons shall be laid off in order beginning with the person lowest on the list."

10. The said Ordinance is further amended by repealing section 32 thereof and by substituting the following therefor:

"PAY

Rate of pay on appointment.

32. (1) Subject to this section, the rate of pay of a person appointed to a position in the public service shall be the minimum rate for the class of that position.

Appointment at higher than minimum rate.

(2) The Commissioner may make an appointment to a position or to positions in a class at a rate of pay higher than the minimum rate applicable to that position or class.

(3) Subject to this Ordinance, an employee is entitled to be paid for services rendered the remuneration applicable to the position held by him."

11. The said Ordinance is further amended by repealing subsection (2) of section 34.

12. The said Ordinance is further amended by repealing sections 37, 38 and 39.

13. This Ordinance shall come into force on a day to be fixed by the Commissioner.

CHAPTER 9

ORDINANCES OF THE YUKON TERRITORY

[...]

1970 (Second Session)

AN ORDINANCE TO AUTHORIZE THE
COMMISSIONER TO BORROW A SUM NOT
EXCEEDING ONE HUNDRED AND EIGHTY
THOUSAND DOLLARS FROM THE GOVERNMENT
OF CANADA IN ORDER TO REIMBURSE THE ANVIL
MINING CORPORATION LIMITED FOR THE HIGHER
COST OF TOWNSITE DEVELOPMENT AND TO
AUTHORIZE THE COMMISSIONER TO ENTER INTO
AN AGREEMENT WITH CANADA RELATING
THERE TO

(Assented to April 16, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- Short title. **1.** This Ordinance may be cited at the *Canada and Anvil Agreement Ordinance No. 2.*
- Commis-
sioner
may borrow. **2.** The Commissioner may on behalf of the Yukon Territory borrow from the Government of Canada a sum not exceeding One hundred and eighty thousand dollars.
- Commis-
sioner may
execute
agreement
with Canada. **3.** The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory an agreement with the Government of Canada providing for
- (a) the repayment to the Government of Canada of the amount borrowed pursuant to section 2;
 - (b) the payment to the Government of Canada of interest at such rate as may be agreed upon by the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 2;

(c) such other terms and conditions as may be agreed upon by the Commissioner.

4. The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory an agreement with the Anvil Mining Corporation Limited providing for the payment to the corporation of additional cost of the construction of a public townsite. Commis-
sioner may
execute
agreement
with Anvil.

5. The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Territory under agreements entered into pursuant to sections 3 and 4 of this Ordinance.

CHAPTER 10

ORDINANCES OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AUTHORIZE THE
 COMMISSIONER TO BORROW A SUM NOT
 EXCEEDING FOUR HUNDRED THOUSAND
 DOLLARS FROM THE GOVERNMENT OF CANADA
 AND TO AUTHORIZE THE COMMISSIONER TO
 ENTER INTO AN AGREEMENT WITH CANADA
 RELATING THERETO

(Assented to April 16, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

Short title. **1.** This Ordinance may be cited as the *Loan Agreement Ordinance (1970), No. 1 (C.M.H.C. Second Mortgage Loans)*.

Commis-
sioner may
borrow. **2.** The Commissioner may on behalf of the Yukon Territory borrow from the Government of Canada a sum not exceeding four hundred thousand dollars for Central Mortgage and Housing Corporation Second Mortgage Loans.

Commis-
sioner may
execute
agreement **3.** The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory an agreement with the Government of Canada providing for

(a) the repayment to the Government of Canada of the amount borrowed pursuant to section 2;

(b) the payment to the Government of Canada of interest at such rate as may be agreed upon by the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 2; and

- (c) such other terms and conditions as may be agreed upon by the Commissioner.

4. The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Territory under this Agreement.

Comms-
sioner may
implement
agreement.

LOAN AGREEMENT (1970) No. 2

CHAPTER 11

ORDINANCES OF THE YUKON TERRITORY

1970 (Second Session)

AN ORDINANCE TO AUTHORIZE THE
COMMISSIONER TO BORROW A SUM NOT
EXCEEDING THREE HUNDRED AND FIFTY
THOUSAND DOLLARS FROM THE GOVERNMENT
OF CANADA AND TO AUTHORIZE THE
COMMISSIONER TO ENTER INTO AN AGREEMENT
WITH CANADA RELATING THERETO

(Assented to April 16, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- Short title. **1.** This Ordinance may be cited as *the Loan Agreement Ordinance (1970), No. 2. (Riverdale)*.
- Commis-
sioner may
borrow. **2.** The Commissioner may on behalf of the Yukon Territory borrow from the Government of Canada a sum not exceeding three hundred and fifty thousand dollars for the development of serviced lots in Riverdale Housing Subdivision, Whitehorse.
- Commis-
sioner may
execute
agreement **3.** The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory an agreement with the Government of Canada providing for
- (a) the repayment to the Government of Canada of the amount borrowed pursuant to section 2;
 - (b) the payment to the Government of Canada of interest at such rate as may be agreed upon by the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 2; and

- (c) such other terms and conditions as may be agreed upon by the Commissioner.

4. The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Territory under this Agreement. Commissioner may implement agreement.

CHAPTER 12

ORDINANCES OF THE YUKON TERRITORY

1970 (Second Session)

**AN ORDINANCES TO AUTHORIZE THE
COMMISSIONER TO BORROW A SUM NOT
EXCEEDING FOUR HUNDRED THOUSAND DOLLARS
FROM THE GOVERNMENT OF CANADA AND TO
AUTHORIZE THE COMMISSIONER TO ENTER INTO
AN AGREEMENT RELATED THERETO**

(Assented to April 3, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- | | |
|--|--|
| Short title. | 1. This Ordinance may be cited as the <i>National Housing Act (Canada) Second Mortgage Loan Agreement Ordinance</i> . |
| Commis-
sioner may
borrow. | 2. The Commissioner may, on behalf of the Yukon Territory, borrow from the Government of Canada a sum not exceeding four hundred thousand dollars for the purposes of making Second Mortgage Loans under the Provisions of the National Housing Act (Canada). |
| Commis-
sioner may
execute
Agreement | 3. The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory an agreement with the Government of Canada providing for: <ul style="list-style-type: none"> (a) the repayment to the Government of Canada of the amount borrowed pursuant to section 2; (b) the payment to the Government of Canada of interest at such rate as may be agreed upon with the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 2; and (c) such other terms and conditions as may be agreed upon by the Commissioner. |
| Commis-
sioner may
implement
agreement. | 4. The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Territory under this Agreement. |



ORDINANCES
OF THE
YUKON TERRITORY

PASSED BY THE
YUKON COUNCIL

IN THE YEAR
1970
THIRD SESSION

CHAPTER 1

ORDINANCES OF THE YUKON TERRITORY

1970 (Third Session)

AN ORDINANCE RESPECTING SECURITIES

(Assented to July 3, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

O. Y. T.
1966 (1st)
c. 2
1970 (1st)
c. 8

SHORT TITLE.

1. This Ordinance may be cited as the *Securities Ordinance*. Short Title.

INTERPRETATION.

2. In this Ordinance unless the context otherwise requires:
- (a) "broker" means a person or company who trades in securities but does not include a salesman; "Broker"
- (b) "company" means an incorporated company, incorporated association, incorporated syndicate and incorporated organization, where-soever incorporated, and includes an intend-ed company; "Company"
- (c) "individual" means a natural person, but does not include a trustee, partnership, unin-corporated association, unincorporated or-ganization, unincorporated syndicate, execu-tor, administrator or other personal legal representative; "Individual"
- (d) "investment counsel" means any person or company who or that engages in or holds himself out as engaging in the business of advising others as to the advisability of in-vesting in or purchasing or selling specific securities and who or that is primarily en-gaged in giving continuous advice as to the investment of funds on the basis of the in-dividual needs of each client; "Investment counsel"

- "Official" (e) "official" includes president, chairman, director, member of a committee, trustee, secretary, treasurer, general manager, departmental or branch manager and any other person in a managerial capacity by whatsoever name called;
- "Person" (f) "person" means an individual, partnership, any unincorporated association, unincorporated syndicate, unincorporated organization, trustee, executor, administrator or other legal personal representative;
- "Registrar" (g) "registrar" means the Registrar of Securities or any duly authorized person performing his duties under this Ordinance;
- "Salesman" (h) "salesman" means an individual registered as a salesman under this Ordinance;
- "Security" (i) "security" includes
- (i) any document, instrument or writing commonly known as a security;
 - (ii) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company;
 - (iii) any document constituting evidence of an interest in an association of legatees or heirs;
 - (iv) any document constituting evidence of an option, subscription, or other interest in or to a security;
 - (v) any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificates of share or interest, pre-organization certificate of subscription;
 - (vi) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company;
 - (vii) any certificate of share or interest in a trust, estate or association;

- (viii) any profit-sharing agreement or certificate;
- (ix) any certificate of interest in an oil, natural-gas, or mining lease, mineral claim, or royalty voting trust certificate;
- (x) any oil or natural-gas royalties or leases or fractional or other interest therein;
- (xi) any collateral trust certificate;
- (xii) any exploration permit (petroleum and natural-gas);
- (xiii) any income or annuity contract;
- (xiv) any investment contract, whether any of foregoing relate to a person, proposed company, or company, as the case may be;
- (xv) any plan or agreement (or any certificate, instrument, or writing relating thereto), for the payment of educational costs or other assistance to students, the principal features of which consist of
 - (A) the making of contributions; and
 - (B) benefits related in whole or in part to the amount and duration of contributions.
- (j) "securities adviser" means any person or company who or that engages in or holds himself or itself out as engaging in the business of advising others, either directly or through publications or writings, as to the advisability of investing in or purchasing or selling specific securities; "Securities Adviser"
- (k) "security-issuer" means a person or company trading only in securities of his or its own issue; "Security Issuer"
- (l) "trade" or "trading" includes any purchase of a security, any solicitation or obtaining of a subscription to or purchase of a security, any sale or disposition of a security, any dealing or transaction in a security, and, in the case of a company, includes any allotment, issue, "Trade"

or disposition of any of its own securities by option, agreement, sale, resolution, by-law, or otherwise, and in all cases includes anything declared to be included in this definition by the regulations.

Exemption of
certain
trades in
securities
from
registration.

3.

Part III of this Ordinance shall not apply to :

- (a) a trade in a specific security by or on behalf of the owner, for the owner's account, where the trade is not made in the course of continued and successive transactions of a like nature and is not made by a person or company whose usual business is trading in securities;
- (b) a trade in a security where one of the parties to the trade is registered as a broker under the provisions of this Ordinance and the security is listed on any stock exchange designated by the regulations;
- (c) a trade in a security by a chartered bank, a trust company or insurance company;
- (d) a trade in a security by an official or employee of Her Majesty in right of Canada, or any Province or Territory of Canada or of any municipality, or public board, or commission in Canada, in the performance of his duties as such;
- (e) a trade in a security by or for the account of a pledgee or mortgagee for the purpose of liquidating a *bona-fide* debt, where the security was pledged or mortgaged in good faith as security for the debt;
- (f) a trade in a security under a writ of execution or an order of any court, or by an executor, administrator, guardian or committee acting as such, or by a trustee, receiver, or custodian under the *Bankruptcy Act* or by a receiver under the *Judicature Ordinance*; or by a liquidator under the *Winding-up Act* or the *Canada Corporations Act* or the *Companies Ordinance*;

- (g) a trade in its own securities by a company that is constituted as a private company under the law under which the company was incorporated and that is entitled to all privileges and exemptions conferred by that law on a private company, where no commission or other remuneration is paid or given in connection therewith, unless the regulations provide that the company shall not be exempted in whole or in part from the application of Part III;
- (h) a trade in its own securities by a company by way of dividend or distribution of surplus or for the purpose of securing additional capital or funds, if notice thereof is first given to the Registrar and the securities are issued or sold exclusively to existing members of the company or holders of its issued securities and where the Registrar so requires, proportionately to their holdings or in any other proportion or in any other special manner, if no commission or remuneration is allowed or paid in connection therewith; but subject to all provisions of the regulations enlarging or restricting the application of this clause;
- (i) a trade in its own securities by a company in the course of the reorganization of the company and not for the purpose of securing additional capital or funds, except in accordance with the provisions of paragraph (h);
- (j) a trade in its own securities by a company by way of exchange of securities by the company with another company in connection with an amalgamation or consolidation of the companies or a merger of one company in the other company;
- (k) a trade in good faith by a *bona-fide* prospector or miner of a security issued by him to finance a prospecting expedition, or to dis-

pose of any of his interest in a mineral or placer-mining claim or property staked by or wholly or partially owned by him;

- (l) a trade in a security in which trust funds may be invested under the laws of the Territory;
- (m) a trade by a company in securities secured by mortgage or charge on its property, real or personal, where the entire issue of securities is sold at one time;
- (n) a trade in negotiable bills of exchange or promissory notes or other commercial paper maturing not more than one year from the date of issue and not offered for sale to an individual otherwise than provided for in paragraph (a) of this section;
- (o) a trade in a security evidencing indebtedness in respect of a contract within the meaning of the *Conditional Sales Ordinance*;
- (p) a trade in securities by a person or company formed solely for benevolent, fraternal, charitable, educational, or recreational purposes, where no part of the net earnings inure to the benefit of any security holder and information relative to the security has first been delivered to the Registrar;
- (q) any class of trade in a security exempted by the regulations.

PART I

REGISTRATION OF BROKERS, SECURITY-ISSUERS AND SALESMEN.

Acting as
Broker,
Security-
Issuer or
Salesman
without
registration
prohibited.

4. No person or company shall directly or indirectly act as a broker, security-issuer or salesman unless the person or company holds a certificate of registration therefor under this Ordinance which is in full force and effect.

Registration.

5. The Registrar shall grant registration or renewal of registration to an applicant where, in the opinion of the Registrar, the applicant is suitable for registration and the proposed registration is not objectionable.

6. The Registrar may, in his discretion, attach to a registration or renewal of registration such terms, conditions, or restrictions as may be deemed necessary by him.

Restriction
on
registration.

7. Every registration lapses on the 30th day of April in each year, and renewal of registration shall be applied for on or before the 1st day of April in each year, giving full particulars of any change in the facts set forth in the latest application form on record with the Registrar and enclosing the prescribed fee.

8. A registration shall have effect only in respect of *bona-fide* trades entered into during the period for which the registration is in force, and if the certificate of registration provides that any term, condition, or restriction shall continue in force, notwithstanding the variation, termination or expiration of the registration, the term, condition, or restriction shall have effect accordingly.

Restriction
on
registration
to continue.

9. (1) The Registrar may refuse an application for registration or renewal of registration but if there is material alteration in the proposals a further application may be made, provided that no new application shall be receivable by the Registrar until after the expiration of one month from the date upon which the last application was refused except for technical errors in the application.

Refusal of
registration.

(2) The Registrar shall suspend or cancel any registration where in his opinion such action is in the public interest; in which case he shall forthwith notify the registrant of the suspension or cancellation.

Suspension
Cancellation.

10. Every application for registration under this Ordinance shall be made in the prescribed form.

Application
on
prescribed
form.

11. The Registrar may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, official, director or employee of the applicant or of the registrant to submit to examination under oath by the Registrar or a person designated by him in writing.

Further
Information.

Expert to assist Registrar.

12. (1) Where the Registrar deems it necessary for the due administration of this Ordinance, he may appoint one or more persons to assist him who, in his opinion, are qualified to do so.

Examination of documents by expert.

(2) The Registrar may submit any agreement, prospectus, financial statement, report or other document to a person appointed under subsection (1) for examination, and the Registrar or a person designated by him in writing has the like power to summon and enforce the attendance of witnesses before a person appointed under subsection (1) and to compel them to produce documents, records and things as is vested in the Registrar.

Expert to be paid.

(3) A person appointed under subsection (1) shall be paid such amounts for services and expenses as may be prescribed.

Address for Service.

13. Every applicant shall state in an application for registration, an address for service in the Territory and all notices under this Ordinance or the regulations shall be sufficiently given to or served on the applicant for all purposes of this Ordinance if sent by prepaid mail addressed to the applicant at the latest address so stated.

Bond by a surety company if required.

14. (1) The Registrar may require any applicant or any registered person or company within a specified time to deliver a bond by a surety company approved by the Registrar or any other bond in such form and upon such condition and in such amount as the regulations or the Registrar shall require.

New or Additional Bond.

(2) The Registrar may require a new or an additional bond of the kind mentioned in subsection (1) to be filed within a specified time.

Forfeiture of bonds.

15. (1) Any bond mentioned in section 14 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to the Commissioner when there has been filed with the Registrar the Commissioner's certificate that the person or company in respect of whose conduct the bond is conditioned, or any official of such company, has, in connection with a trade in a security, been:

- (i) convicted of a criminal offence;
- (ii) convicted of an offence against any provision of this Ordinance or the regulations;
- (iii) enjoined by the court or a judge thereof or otherwise than by an interim injunction; or
- (iv) a party to civil proceedings as a result of which final judgment has been given against such person, company, or official in connection with a trade in a security where such judgment is based upon a finding of fraud.

(2) Any bond mentioned in section 14 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to the Commissioner when there has been filed with the Registrar a certificate signed by the Commissioner that proceedings by or in respect of the person or company in respect of whose conduct the bond is conditioned has been taken:

Forfeiture upon bankruptcy or winding-up proceedings.

- (a) under the *Bankruptcy Act*, or
- (b) in the case of a company, by way of winding-up.

(3) The Commissioner may assign any bond forfeit under the provisions of subsections (1) and (2) or may pay over moneys recovered thereunder to any person or company, or into the Court in trust for such persons and companies as are or may become judgment creditors of the person or company bonded, or to any trustee, custodian, interim or official receiver, or liquidator of such person or company, as the case may be; such assignment or payment over to be in accordance with and upon conditions set forth in the regulations or in any special order of the Commissioner.

Assignment of Bonds or payment of moneys to creditors.

16. The Commissioner, whenever Her Majesty becomes a creditor of any person or company in respect of a debt arising from the provisions of section 15 and of this section, may take such proceedings as he shall see fit under the *Bankruptcy Act*, the *Judicature Ordinance*, the *Winding-up Act* or the *Companies Act of Canada* for the appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be.

Appointment of receiver, etc.

Appeal from refusal, suspension or cancellation.

17. Where any registration is refused, suspended or cancelled under this Part, the person or company affected may appeal therefrom to the Court within thirty days from the date on which notice of refusal, suspension or cancellation is given by the Registrar and the Court may confirm, reverse or modify the action of the Registrar.

Notice of Refusal, suspension, or cancellation

18. The Registrar may in the case of any refusal or suspension and shall in the case of any cancellation give notice to the public by advertisement or otherwise, or to any individual by letter or otherwise, whenever he deems it advisable.

PART II

INVESTIGATION AND ACTION BY THE REGISTRAR

Investigation by Registrar.

19. (1) The Registrar or any person or persons he may by order appoint, may make such investigation as he or they deem expedient for the due administration of this Ordinance or into any matter relating to trading in securities, in which case the Registrar or his representative or representatives may investigate, inquire into and examine:

Scope of Investigation.

- (a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings, and payments to, by, on behalf of, or in relation to or connected with the person or company and any property, assets, or things owned, acquired, or alienated in whole or in part by the person or company or by any person or company acting on behalf of or as agent for the person or company, and
- (b) the assets at any time held, the liabilities, debts, undertakings, and obligations at any time existing, the financial or other conditions at any time prevailing or in relation to or in connection with the person or company, and the relationship that may at any time exist or have existed between the person or company and any other person or company by reason of investments, commis-

sions promised, secured, or paid, interests held or acquired, the loaning or borrowing of money, stock, or other property, the transfer, negotiation, or holding of stock, interlocking directorates, common control, undue influence, or control or any other relationship.

(2) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records, and things, as is vested in the Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions, or to produce the documents, records and things in his custody or possession makes the person liable to be committed for contempt by a judge of the court as if in breach of an order or judgment of that Court; and no provision of the *Evidence Ordinance* exempts any bank or any officer or employee thereof from the operation of this section.

Power to
summon
witnesses.

(3) A person giving evidence at an investigation under this section may be represented by counsel or agent.

Counsel or
agent.

(4) Where an investigation is ordered under this section, the person or persons appointed to make the investigation may seize and take possession of any documents, records, securities, or other property of the person or company whose affairs are being investigated.

Seizure of
property.

(5) Where any documents, records, securities, or other property are seized under subsection (4), the documents, records, securities, or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place.

Inspection
of property.

(6) Where an investigation is ordered under this section, the Registrar may appoint an accountant or other person to examine documents, records, properties, and matters of the person or company whose affairs are being investigated.

Accountants,
other
experts.

(7) Every person or persons appointed under this section shall report the result of his investigation or examination to the Registrar.

Report of
investiga-
tions.

Evidence not to be disclosed.

(8) No person, without the consent of the Commissioner or the Registrar, shall disclose, except to his counsel, or the agent appointed pursuant to subsection (3), any information or evidence obtained or the name of any witness examined or brought to be examined under this section.

Territorial Court or judge may enjoin from trading in securities.

20. (1) The Court or any judge thereof, upon the application of the Registrar, where it is made to appear upon the material filed or evidence adduced that any fraudulent act, or any offence against this Ordinance or the regulations, has been, is being, or is about to be committed, may by order enjoin:

- (a) any registered broker, security-issuer or salesman, or any person or company implicated with any of them in the same matter, from trading in any security whatever absolutely or for such period of time as shall seem just, any such injunction shall *ipso facto* suspend the registration of any registered broker, security-issuer, or salesman named in the order absolutely or during the period of time stated in the order, or
- (b) any person or company from trading in any security whatever, or in any specific security, or from committing any specific security, or from committing any specific fraudulent act or series of fraudulent acts absolutely or for such period of time as shall seem just.

Application may be ex parte or by originating notice.

(2) The application of the Registrar under subsection (1) may be made without any action being instituted, either:

- (a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof, unless the time is extended or the originating motion mentioned in clause (b) hereof is sooner heard and determined, or
- (b) by an originating notice of motion, which, if an interim injunction has been granted, shall be served within five and returnable within ten days from the date of such interim injunction.

(3) In proceedings under this section the evidence of a witness may be used against him notwithstanding anything in the *Evidence Ordinance* contained. Evidence.

21. (1) The Registrar may,

- (a) where he is about to order an investigation under Section 19 involving a person or company or during or after an investigation under Section 19, involving a person or company;
- (b) where he is about to suspend or cancel the registration of any person or company; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Ordinance or the regulations are about to be or have been instituted against any person or company that in the opinion of the Registrar are connected with or arise out of any security or any trade therein or out of any business conducted by such person or company,

Order to hold or refrain from dealing with funds.

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds of securities of the person or company referred to in paragraph (a), (b), or (c) to hold the funds or securities or direct the person or company referred to in paragraph (a), (b), or (c) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control, or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act*, the *Companies Ordinance* or the *Winding-up Act of Canada*, or until the Registrar in writing revokes the direction or consents to release any particular fund or security from the direction, but the direction does not apply to funds or securities in a stock-exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank loan, or trust company, the direction applies only to the offices, branches, or agencies thereof named in the direction.

Application
for
direction.

(2) Any person or company in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any funds or security or in the case of a claim being made thereto by any person or company not named in the direction, may apply to a judge of the Court, who may direct the disposition of such funds or security and may make such order as to costs as seems just.

Notice to
Registrars.

(3) In any of the circumstances mentioned in paragraph (a), (b) or (c) of subsection (1), the Registrar may in writing or by telegram notify the Registrar of Land Titles or any Mining Recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or mining claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens*, and the Registrar may in writing revoke or modify the notice.

Application
for
appointment
of receiver,
receiver and
manager or
trustee.

22. (1) The Registrar may,

- (a) where he is about to order an investigation under section 19 or during or after an investigation under section 19;
- (b) where he is about to make or has made a decision affecting the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Ordinance or the regulations are about to be or have been instituted against any person or company that in the opinion of the Registrar is connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company,

apply to a judge of the Court for the appointment of a receiver or a receiver and manager or a trustee of the property of such person or company.

Appoint-
ment.

(2) Upon an application made under subsection (1) the judge may, where he is satisfied that the appointment

of a receiver or a receiver and manager or a trustee of the property of any person or company or of persons or companies any of whose property is in the possession or under the control of the person or company, appoint a receiver or a receiver and manager or a trustee of the property of the person or company.

(3) Upon an *ex parte* application made by the Registrar under this section, the judge may make an order under subsection (2) appointing a receiver or a receiver and manager or a trustee for a period not exceeding eight days. *Ex parte application.*

(4) A receiver or a receiver and manager or a trustee of the property of any person or company appointed under this section shall be the receiver or the receiver and manager or the trustee of all the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver or the receiver and manager or the trustee has authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto. *Powers of receiver, receiver and manager, or trustee.*

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Court and may be varied or discharged upon an application made by notice. *Enforcement of order.*

PART III

REGULATION OF TRADING.

23. (1) No person or company shall trade in any security issued by a mining company, investment company, industrial company either on his own account or on behalf of any other person or company until there has been filed with and accepted by the Registrar a prospectus in respect of the offering of the security and a receipt therefor in writing has been obtained from the Registrar or the Registrar has ordered a prospectus need not be filed. *Prohibition as to trading.*

(2) A prospectus shall not be accepted by the Registrar unless it is completed in accordance with this Ordinance and the regulations. *Prohibition.*

(3) A prospectus shall be dated and signed by everyone who, at the time of the filing thereof with the Registrar, is a director or promoter of the company that issued or will issue the security, or is an underwriter or optionee of the security. *Signatures.*

Content of prospectus.

(4) A prospectus shall contain a full, true and plain disclosure relating to the security to be traded and,

- (a) if the company that issued or will issue the security is a mining company, shall be in accordance with Schedule A of the regulations;
- (b) if the company that issued or will issue the securities is an investment company, shall be in accordance with Schedule B of the regulations; or
- (c) if the company that issued or will issue the security is an industrial company, shall be in accordance with Schedule C of the regulations.

Corrections.

(5) Where, after the filing of a prospectus and the issuance of a receipt therefor by the Registrar under subsection (1) a change occurs that causes to be incorrect or misleading any material information in a prospectus, financial statement or report filed under this Ordinance and relating to the security being traded, a new or amended prospectus, financial statement or report shall be filed with the Registrar within twenty days of the occurrence of the change, signed by the signatories to the first prospectus filed with the Registrar, and where there has been a change of directors, promoters or underwriters in the meantime, the Registrar shall decide upon the necessary signatories.

Prospectus of other Province.

(6) The Registrar may accept a form of prospectus and any amendments thereto that is in accordance with the law of another Province if, in his opinion, the prospectus and amendments contain full, true and plain disclosure relating to the security to be traded and is accompanied by proof of filing of the prospectus in the other Province.

Delivery of prospectus.

24. (1) A person or company registered for trading in securities under this Ordinance who or that receives, an order subscription or request for a security to which Section 23 is applicable shall deliver or cause to be delivered to the prospective purchasers:

- (a) a copy of the last prospectus relating to the security filed with the Registrar;

- (b) a copy of the last financial statement and reports filed with and accepted by the Registrar; and
- (c) a fair and accurate summary of the report on the property of the company that issued the security and the development thereof, with all appropriate corrections.

(2) The delivery under subsection (1) shall be made before delivery of the written confirmation under Section 28. Delivery before confirmation.

25. (1) A person who has entered into a contract for the purchase of a security to which section 23 applies is entitled to rescission of the contract where Rescission of contract.

- (a) section 24 has not been complied with;
- (b) written notice of intention to commence an action for rescission of the contract on the person who contracted to sell the security within sixty days of the date of delivery of the written confirmation of the sale of the security; and
- (c) the purchaser is still the owner of the security.

(2) In an action for rescission under subsection (1) the onus of proving compliance with section 24 is upon the person who, under the contract, was or would be the seller of the securities. Onus.

(3) No action shall be commenced under this section after the expiration of three months from the date of service of the notice under subsection (1). Limitation of action.

(4) Every prospectus shall contain a statement of the rights given to a purchaser by this section. Statement in prospectus.

26. (1) A person or company that is a party to a contract as purchaser resulting from the offer of a security to which section 23 is applicable has a right to rescind the contract while still the owner of the security if the prospectus and any amendment to a prospectus then filed with the Registrar in compliance with section 23 received by the purchaser, as of the date of receipt, contains an untrue statement of a material fact or omits to state a material Right to rescind.

fact necessary in order to make any statement contained therein not misleading in the light of the circumstances in which it was made.

Period of limitation.

(2) No action shall be commenced under this section after the expiration of ninety days from the later to occur of the receipt of the prospectus or amended prospectus by the purchaser or the date of the contract referred to in subsection (1).

Where subsection (1) does not apply.

(3) Subsection (1) does not apply to an untrue statement of a material fact or an omission to state a material fact

- (a) if the untruth of the statement or the fact of the omission was unknown to the person or company whose securities are being offered by the prospectus, in the exercise of reasonable diligence, could not have been known to the person or company;
- (b) if the statement or omission is disclosed in an amendment to a prospectus filed in compliance with section 23 and the amendment to the prospectus was received by the purchaser; or
- (c) if the purchaser knew of the untruth of the statement or knew of the omission at the time he purchased the security.

No derogation of rights.

(4) The cause of action conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

Prospectus to contain statement of right of rescission.

(5) Every prospectus shall contain a statement of the right of rescission provided by this section.

Time of receipt.

(6) For the purpose of this section, where a prospectus or any amendment thereto is sent by prepaid mail, it shall be deemed to be received in the ordinary course of mail by the person or company to whom it was addressed.

Voidability of short sales.

27. (1) Where a broker contracts with a client or customer to buy and carry for him upon margin any security, whether in the Territory or elsewhere and, while the contract continues, sells or causes to be sold securities of the same kind for any account in which he, or in the case of a partnership, his firm or a partner thereof, or in the case

of a company, the company or a director thereof, has a direct or indirect interest, the contract shall at the option of the client or customer be void, and the client or customer may recover from the broker all moneys paid with interest thereon, and all securities deposited in respect thereof, if the effect of any such sale shall otherwise than unintentionally be to reduce the amount of such securities in the hands of the broker or under his control in the ordinary course of business below the amount of such securities which he should be carrying for all clients or customers.

(2) The client or customer may exercise his option under subsection (1) by a registered letter to that effect mailed to the broker at his address for service in the Territory with a copy thereof to the Registrar. Exercise of option.

28. Every broker who has acted as an agent or principal in a trade in a security shall promptly send or deliver to each client or customer, for whom any security has been bought or sold by the broker, a written confirmation of the transaction, setting forth: Confirmation of customer's transaction.

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) the name of the person or company, from, to, or through whom the security was bought or sold;
- (d) the day and, in the case of a member of a stock exchange, the name of the stock exchange upon which the transaction took place;
- (e) whether or not the broker is acting as principal or agent;
- (f) the commission, if any, charged in respect of the purchase or sale; and
- (g) the name of the salesman, if any, in the purchase or sale.

29. (1) No person shall, Calling at the residences for purpose of trading prohibited.

- (a) call at any residence; or
- (b) telephone from within the Territory to any resident within or outside of the Territory for the purpose of trading in any security with any member of the public.

- (2) In this section,
- (a) the word "residence" includes any building or part of a building in which the occupant thereof resides, either permanently or temporarily, and any premises appurtenant thereto, but does not include an office used for business purposes; and
 - (b) the word "public" does not include,
 - (i) close personal friends;
 - (ii) business associates;
 - (iii) customers with whom the person who calls for the purpose of trading in securities who has completed at least five trades in the past in the course of regular business in the sale of or obtaining subscriptions for securities, or
 - (iv) any person who has received a prospectus and who subsequently makes a request in writing, signed by himself, for further information with respect to the securities described in the prospectus.

(3) This section does not apply to a trade in a security in which trust funds may be invested under the *Trustee Ordinance* or a trade in a security exempted by the regulations or by the Registrar.

Advertisement of opportunity for employment with investment.

30. No person shall advertise by publishing in any newspaper, magazine, or periodical, or by any written or printed matter displayed to any person, an opportunity for employment coupled with an invitation to purchase securities, or any offer of employment in consideration of a loan, without the approval of the Registrar in writing having been first obtained.

Investment counsel or securities adviser.

31. No person shall carry on business or describe himself as an investment counsel or securities adviser unless he is registered under this Ordinance as a broker.

Representation of approval by Commissioner or Registrar prohibited.

32. No person shall make any representation, written or oral, that the Commissioner or Registrar has in any way passed upon the financial standing, fitness, or conduct

of any broker, security-issuer, salesman, or person or upon the merits of any security offered for sale by any broker, security-issuer, salesman, or person.

33. (1) Where the Registrar considers it to be in the public interest, he may at any time issue an order prohibiting any person or company to whom the order is addressed, whether such person or company is registered or not, from trading in the securities mentioned in the order for such periods as may be mentioned therein.

Order to
cease
trading.

(2) Every order made under this section shall be served on the person or company to whom it is addressed and forthwith upon receipt of the notice, and so long as the order remains in force, the person or company named therein shall comply with the order.

Service of
order.

(3) A copy of the order shall be served on the person or company issuing the security.

Copy of
order.

(4) Any person or company prohibited by any order made under subsection (1) shall have the right of appeal therefrom to the Court if made within thirty days from the date of the mailing of the order to the person or company named therein provided that the Court may give leave to extend the time for appeal beyond the thirty days.

Appeal.

PART IV

AUDITS.

34. Every person or company who or that applies for registration as a broker or security-issuer under this Ordinance shall give to the Registrar, at the time of making application, his or its undertaking in writing to employ an independent accountant satisfactory to the Registrar to audit in each year his or its assets and liabilities and to prepare a balance sheet showing the position of his business and affairs as at a date to be stated in the undertaking.

Undertaking
to employ
accountant.

35. Every person or company registered under this Ordinance as a broker or security-issuer shall keep whatever books and records are necessary for the proper recording of his business transactions and financial affairs and shall, notwithstanding the requirements of section 34, file

Broker &
Security-
Issuer
to keep
records.

with the Registrar annually and at such other time or times as the Registrar may require a financial statement as to his or its financial position, certified by a partner or director of the person or company so registered and reported upon by the auditors of the person or company and such other information as the Registrar may require in such form as may be prescribed.

Registrar or representative may make financial examination

36. (1) The Registrar or any person or persons directed in writing by him may at any time make an examination of the financial affairs of any person or company registered under this Ordinance as a broker or security-issuer or of any person or company whose securities have been the subject of a filing of a prospectus pursuant to the requirements of this Ordinance, and prepare a balance sheet as of the date of such examination and any other statements and reports required by the Registrar.

Access to books of account.

(2) The Registrar or any person or persons making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence, and records of every description of the person or company whose financial affairs are being examined and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

Fees for examination

(3) The Registrar may charge the prescribed fees for any examination made under this section.

PART V

GENERAL PROVISIONS.

Judge not *persona designata*

37. A judge of the Court, in exercising any of the powers conferred upon such judge by this Ordinance shall be deemed so to act as a judge of the Court and not as *persona designata*.

Rules of court to apply.

38. The provisions of the *Judicature Ordinance* and the *Rules of Court*, so far as they are applicable to proceedings of a like nature, including those relating to appeals and to the enforcement of judgments and orders, shall apply to every proceeding before the Court or a judge thereof under the provisions of this Ordinance.

39. The Registrar shall have a seal of office, bearing thereon the words, "*Registrar, Securities Ordinance, Yukon Territory*" which he shall use as occasion may require.

Registrar to have seal of office for certification of documents.

40. The Registrar and every officer, clerk, or person in or attached to his office shall keep secret all facts and information obtained or furnished under this Ordinance except so far as his public duty requires him to make disclosure thereof, or to report or take official action thereon.

Information under Ordinance to be kept secret.

41. No action whatever, and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy, shall lie or be instituted against any person, whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or carrying-out of the provisions of this Ordinance or the regulations where such person is the Commissioner or his representative, or the Registrar, or where such person or company was proceeding under the written or verbal direction or consent of any one of them, or under an order of the Court or a judge thereof made under the provisions of this Ordinance.

Protection of persons administering the Ordinance.

42. A statement as to

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document, or material;
or
- (d) the date upon which the facts first came to the knowledge of the Registrar for the purposes of section 49

Admissibility in evidence of certified statements

purporting to be certified by the Registrar is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding, or prosecution.

Power to give priority to prospector or miner.

43. Where a *bona fide* prospector or miner has become the owner of or beneficially entitled to any security in consideration of his work as a prospector or miner, and where the security is in escrow under the control of the Registrar, the Registrar may, in releasing the security from escrow give such priority or preference to the prospector or miner as the Registrar may deem advisable.

Inspection and copies of documents.

44. Any person may inspect and may require a copy or extract of any document or a certificate of any registration on payment of the prescribed fee and may require the copy or extract to be certified by the Registrar as a true copy or extract on payment of the prescribed fee but the provisions of this subsection shall not extend to any document which in the opinion of the Registrar is of a confidential nature.

Commissioner and Registrar not bound to attend out of office as witness.

45. The Commissioner and Registrar in their official capacities shall not be bound to attend out of their offices as witnesses for examination, or to produce out of their offices any document kept or filed with them as such Commissioner or Registrar under this Ordinance, in pursuance of any subpoena, order, or summons issued from any Court, whether such subpoena, order, or summons is directed to him personally or in his official capacity; but the Commissioner or Registrar may be examined and documents produced under a commission or otherwise at his office.

Power to make regulations.

46. The Commissioner may make regulations in respect of any matter arising out of the provisions of this Ordinance.

Fees, etc. to be paid into treasury.

47. All fees paid to the Registrar in pursuance of this Ordinance and all costs of investigation payable under section 51 of this Ordinance shall be paid by him into the Yukon Consolidated Revenue Fund in full.

Offences general.

48. (1) Every person or company who or that,
 (a) makes a statement in any material evidence, or information submitted or given under this Ordinance or the regulations to the Com-

missioner, his representative, or the Registrar, or to any person appointed to make an investigation or audit under this Ordinance, that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact the omission of which makes the statement false or misleading;

- (b) makes a statement in any application, report, prospectus, return, financial statement, or other document required to be filed or furnished under this Ordinance or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact the omission of which makes the statement false or misleading;
- (c) contravenes this Ordinance or the regulations; or
- (d) fails to observe or comply with any order, direction, or other requirement made under this Ordinance or the regulations,

is guilty of an offence and on summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a term of not more than one year, or to both such fine and imprisonment.

(2) No person or company is guilty of an offence under paragraph (a) or (b) of subsection (1) if he or it did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading. Defence.

(3) Where a company is guilty of an offence under subsection (1), every director or official of such company who authorized, permitted, or acquiesced in such offence is also guilty of an offence and on summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a term of not more than one year, or to both such fine and imprisonment. Directors
and
officials.

Companies maximum fine.

(4) Notwithstanding subsection (1), where a company is convicted thereunder, the maximum fine that may be imposed is twenty-five thousand dollars.

Consent of Commissioner.

49. (1) No prosecution for an offence under this Ordinance shall be instituted except with the consent or under the direction of the Commissioner or his authorized officer.

Time limitation.

(2) Unless otherwise provided in this Ordinance no prosecution for an offence under this Ordinance shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Registrar.

Endorsement of warrants of arrest in other jurisdictions.

50. (1) Where a Police Magistrate or Justice of a Province issues a warrant for the arrest of any person on a charge of violating any provision of any Statute of that Province similar to this Ordinance, any Magistrate or Justice of the Territory within whose jurisdiction that person is or is suspected to be may, upon satisfactory proof of the handwriting of the Police Magistrate or Justice who issues the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed shall be sufficient authority to the person bringing the warrant, and to all other persons to whom it was or generally directed, and to all police constables or peace officers within the territorial jurisdiction of the Police Magistrate or Justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or any where in this Territory and to rearrest such person anywhere in this Territory.

(2) Any police constable or peace officer of this Territory or any Province who is passing through this Territory, having in his custody a person arrested in another Territory or Province, under a warrant endorsed in manner provided by subsection (1) shall be entitled to hold, take, and rearrest the accused anywhere in this Territory under such warrant without proof of the warrant or the endorsement thereof.

Collection of costs of investigation.

51. (1) Where, in consequence of an investigation under Part II any person has been :

- (a) convicted of a criminal offence;
- (b) convicted of an offence against this Ordinance or the regulations;
- (c) enjoined by an order made under Section 20;
- (d) found to be committing, to have been about to commit, or to have committed a criminal offence involving fraud or an offence against this Ordinance or the regulations or where for the purposes of an investigation under Section 19 the Registrar has under subsection (6) of that section appointed an accountant or other person to make an examination in the course of the investigation, the Commissioner shall be entitled to demand from the person payment of the whole or any part of the investigation or examination.

(2) The Commissioner shall set forth in a certificate signed by him that the investigation or examination was made, the amount demanded under subsection (1) and the name of the person from whom it is demanded and the certificate or a copy thereof certified by the Registrar as a true copy may be filed with the Registrar of the Court and when so filed shall become an order of that Court, and may be enforced as a judgment of the Court against that person for the amount stated in the certificate.

52. The *Securities Ordinance*, Chapter 2 of the *Ordinances of the Yukon Territory 1966* (First Session) is repealed.

CHAPTER 2

ORDINANCES OF THE YUKON TERRITORY

1970 (Third Session)

AN ORDINANCE TO INCORPORATE THE VILLAGE OF FARO

(Assented to July 3, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the council of the said Territory, enacts as follows:

- Short title. **1.** This Ordinance may be cited as the *Village of Faro Ordinance*.
- Incorporation. **2.** The inhabitants of the area described in Schedule "A" shall be a body corporate under the name of the Village of Faro.
- Application of Municipal Ordinance. **3.** The Village of Faro shall be a municipality and except where inconsistent with or otherwise provided by this Ordinance, the provisions of the *Municipal Ordinance* shall apply to the Village of Faro and to this Ordinance.
- Transitory provision. **4.** (1) Until a council is elected the powers of the Mayor and Council shall be vested in an administrator appointed by the Commissioner.
(2) The Commissioner may appoint an advisory council to advise the administrator and the term of office of the advisory council shall terminate upon the election of the first municipal council.
- Assessment Roll. **5.** Upon the coming into force of this Ordinance the assessment roll of the village shall be the last revised assessment roll prepared pursuant to the *Taxation Ordinance*.
- Electors. **6.** Every person resident within the Village of Faro who is a Canadian citizen or other British subject and has attained the age of nineteen years and who
(a) is a ratepayer or spouse of a ratepayer, or

(b) has resided within the village for not less than six months immediately prior to the date of the election,

is eligible to vote at an election.

7. Notwithstanding section 240 of the *Municipal Ordinance*, but subject to section 241, any elector other than a corporation is qualified to be nominated and elected as a member of council. Eligibility for office.

8. The first election of the mayor and members of the village council shall be held in accordance with regulations made pursuant to section 13. First election.

9. (1) With effect from the 1st April, 1970, all accounts receivable, sewer and water systems and related inventories now the property of the Government of the Territory with respect to the townsite shall become the property of the village and all liabilities in respect of the said accounts receivable, sewer and water systems and inventories shall be debts of the village. Transfer of assets and liabilities.

(2) The Commissioner may by order require the village council to levy a frontage tax on properties described in the order and remit the tax collected to the Territorial Treasurer.

10. (1) Section 65, 66 and 67 of the *Municipal Ordinance* shall not apply in respect of the Village of Faro.

(2) No by-law pursuant to sections 62, 63 and 64 shall be valid unless, prior to the third reading thereof, it has been submitted to and approved by the Commissioner.

11. (1) Where under a by-law the Council of the Village proposes to expend in respect of any one capital item an amount exceeding \$10,000.00 or in respect of capital items in any one municipal fiscal year an aggregate of \$50,000.00, such by-law, shall not come into force if prior to the third reading thereof a written objection signed by or on behalf of a ratepayer or ratepayers representing not less than fifty per centum of the assessed value of taxable property in the village has been delivered to the office of the Clerk of the Village.

(2) Where a dispute arises as to whether an item is a capital item the dispute shall be resolved by the decision of the Commissioner but an appeal shall lie from the decision of the Commissioner to a judge of the Court.

12. A copy of synopsis of every by-law mentioned in section 11 shall be posted in at least four public places in the village for at least four consecutive weeks immediately preceding the date of the third reading, and the council shall not pass the third reading until thirty days have elapsed from the date of the second reading.

13. The Commissioner may from time to time make rules and regulations for carrying out the purpose of this Ordinance, including matters in respect whereof no express or only partial or imperfect provision has been made in this Ordinance or the *Municipal Ordinance*.

Coming into
force.

14. This Ordinance shall come into force on a day to be fixed by the Commissioner.

SCHEDULE "A"

The boundaries of the village shall include all that parcel or tract of land situated in the Yukon Territory described as follows:

COMMENCING at a point five miles due east of the most northerly corner of Lot 105 as said Lot is shown on a Plan of Survey registered in the Canadian Land Survey Records as No. 55582.;

THENCE due north a distance of three miles to a point;

THENCE due west a distance of ten miles to a point;

THENCE due south a distance of eight miles to a point;

THENCE due east a distance of ten miles to a point;

THENCE due north a distance of five miles to the point of commencement.

CHAPTER 3

ORDINANCES OF THE YUKON TERRITORY

1970 (Third Session)

AN ORDINANCE TO ENABLE THE COMMISSIONER
TO TRANSFER ALL THE STREETS AND LANES IN
THE CITY OF WHITEHORSE TO THE CITY OF
WHITEHORSE*(Assented to July 3, 1970)*

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. This Ordinance may be cited as the *Whitehorse Streets and Lanes Ordinance*. Short title.
2. In this Ordinance, "streets and lanes" means roads, streets, lanes and trails. Interpretation.
3. The Commissioner may dispose, by way of notification in accordance with the *Territorial Lands Act*, to the City of Whitehorse. Disposition of Streets and Lanes.
 - (a) all streets and lanes within the present boundaries of the City of Whitehorse as described in Schedules A, B and C to this Ordinance;
 - (b) all streets and lanes presently outside of the existing boundaries of the City of Whitehorse which may come within those boundaries; and
 - (c) any public lands which become streets or lanes within the present or future boundaries of the City of Whitehorse.
4. Each disposition referred to in section 3 shall be made subject to the reservation that the City of Whitehorse shall have and hold each street and lane so long as the said street or lane is used for a street or lane and that, upon the said street or lane ceasing to be so used, it shall revert to the Commissioner.

Application
of Yukon
Lands
Ordinance.

5. The *Yukon Lands Ordinance* shall not apply to the disposition of streets and lanes under this Ordinance.

SCHEDULE "A"

All the lands described in Certificate of Title No. 342 II in the Yukon Territory Land Registration District as follows:

Firstly: all those parcels or tracts of land shown as streets or lanes in the City of Whitehorse in the Yukon Territory, upon a plan of survey of part of said Townsite of record in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa under number 41584;

Secondly: all those parcels or tracts of land shown as streets and lanes, according to a plan of survey of part of the Townsite of Whitehorse in the Yukon Territory, of record in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa under number 41717;

Thirdly: all and singular that certain parcel of land being an extension northerly of First Avenue in the City of Whitehorse, in the Yukon Territory, more particularly described as follows: Commencing at the northeast corner of Lot Four (4) in Block Ten (10), thence north 69 degrees 21 minutes east in a straight line a distance of 75.63 feet to an iron post marked R1-LA-L5G804; thence north 60 degrees 33 minutes 33 seconds west in a straight line a distance of 75.98 feet to an iron post marked R2; thence south 67 degrees 37 minutes 50 seconds east in a straight line a distance of 36.85 feet to an iron post marked AHL5; thence north 20 degrees 39 minutes west in a straight line a distance of 83.36 feet to the point of commencement according to a plan of survey of record in the Land Titles Office for the Yukon Land Registration District under number 21580 containing by admeasurement 3155 square feet, more or less;

Fourthly: all those parcels or tracts of land shown as streets and lanes upon plans of survey of the Townsite of Whitehorse in the Yukon Territory of record numbers 8880, 40033, 40181, 40186, 40413, 41583, 40925 and 41509

in the Legal Surveys and Aeronautical Charts Division of the Department of Mines and Technical Surveys at Ottawa; saving and excepting thereout and therefrom all those portions more particularly described under *Firstly, Secondly, Thirdly, Fourthly, Fifthly and Sixthly* as follows:

Firstly: all that portion of Lambert Street and 5th Avenue described in Certificate of Title 242 "J";

Secondly: a strip of land twenty feet wide and twenty-six hundred and forty feet long, more or less, lying adjacent to and westerly of the easterly limit of First Avenue, as said Avenue is shown on said plan of record number 8880;

Thirdly: a strip of land twelve feet and seven tenths of a foot in width lying adjacent to and southerly of the southerly limits of Parcel A and Parcel C, and being bounded on the east by the westerly limit of Fourth Avenue and on the west by the southerly production of the westerly boundary of Parcel A, as said Parcel A, Parcel C and Fourth Avenue are shown on said plan of record number 41509;

Fourthly: the strip of land fifteen feet wide separating lots one to six inclusive from lots seven to twelve inclusive in Block One Hundred and Eleven (111), as the last aforesaid strip, lots and block are shown on said plan of record number 40413;

Fifthly: all that part of a lane in Block Sixteen (16) in the City of Whitehorse, in the Yukon Territory, lying between lots Six (6) and Seven (7) and between lots Five (5) and Eight (8) according to a plan of survey of record number 8880 in the Canada Lands Surveys Records at Ottawa;

Sixthly: all those two lanes in Block Seven (7) as the said lanes are shown on a plan of survey of record number 8880.

SCHEDULE "B"

All those streets and avenues in the City of Whitehorse, in the Yukon Territory as shown upon a plan of survey of record in the Land Titles Office for the Yukon Land Registration District under number 3807 and more particularly described as follows:

- (a) All that portion of Lambert Street bounded on the south by Sixth Avenue, on the west by Blocks Forty-four (44) and Thirty-four (34) on the north by Fourth Avenue, and on the east by Blocks Thirty-three (33) and Forty-three (43), and
- (b) All that portion of Fifth Avenue bounded on the south by Lot Twelve (12), in Block Forty-three (43), on the west by Lambert Street, on the north by Lot Seven (7), in Block Thirty-three (33), and on the east by the projection of the easterly boundary of the said Lot Seven (7) southerly in a straight line to its point of intersection with the northerly boundary of the said Lot Twelve (12).

SCHEDULE "C"

All roads, streets, lanes and trails on public land in respect of which no title has yet been created in the Yukon Territory Land Registry District Office and situated in the City of Whitehorse.

CHAPTER 4

ORDINANCES OF THE YUKON TERRITORY

1970 (Third Session)

AN ORDINANCE TO REPEAL THE NATIONAL HOUSING ACT (CANADA) SECOND MORTGAGE LOAN AGREEMENT ORDINANCE AUTHORIZING THE COMMISSIONER TO BORROW A SUM NOT EXCEEDING FOUR HUNDRED THOUSAND DOLLARS FROM THE GOVERNMENT OF CANADA AND TO AUTHORIZE THE COMMISSIONER TO ENTER INTO AN AGREEMENT RELATED THERETO

(Assented to June 25, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

O.Y.T.
1970 (2nd)
c. 12

1. The *National Housing Act (Canada) Second Mortgage Loan Agreement Ordinance* is hereby repealed.

CHAPTER 5

ORDINANCES OF THE YUKON TERRITORY

1970 (Third Session)

AN ORDINANCE TO AMEND THE
ELECTIONS ORDINANCE

(Assented to July 3, 1970)

R.O.Y.T.
1958 c. 34
1960 (3rd)
c. 4
1966 (1st)
c. 8

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Paragraph (a) of section 5 of the *Elections Ordinance* is repealed and the following substituted therefor:

“(a) Is of the full age of nineteen years or attains that age on or before polling day of the election.”

2. All that portion of subsection (1) of section 9 of the *Elections Ordinance* preceding paragraph (a) thereof is repealed and the following substituted therefor:

Disqualifica-
tions of
candidates.

“(1) Subject to subsection (2), the following persons are not eligible to be nominated or elected as member of the Council:”

3. Subsection (2) of section 9 of the said Ordinance is amended by striking out the word “or” at the end of paragraph (e) thereof, by adding the word “or” at the end of paragraph (f) thereof and by adding thereto the following paragraph:

“(g) a member of the Council appointed by the Commissioner to assist him in the administration of the government of the Territory.”

CHAPTER 6

ORDINANCES OF THE YUKON TERRITORY
AN ORDINANCE TO AMEND THE
LEGAL PROFESSIONS ORDINANCE

(Assented to June 25, 1970)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

R.O.Y.T.
1958 c. 64
1962 (1st)
c. 14
1967 (2nd)
c. 9
1968 (4th)
c. 12

1. Section 2 of the *Legal Professions Ordinance* is hereby amended by adding the following new item immediately following item (h):

“(i) “Crown Attorney” means the person who holds the office of Crown Attorney for the Yukon Territory.”

2. Subsection (3) of section 3 of the said Ordinance is repealed and the following substituted therefor:

“(3) The Secretary shall also cause the name of the person who from time to time holds office of Legal Adviser or the office of Crown Attorney to be entered on the Roll with the date of such person’s appointment to that office.”

3. Section 12 of the said Ordinance is repealed and the following substituted therefor:

“12. The Legal Adviser and the Crown Attorney and any person mentioned in section 26 shall be deemed to be duly qualified barristers and solicitors practising in the Territory.”

Persons
deemed
qualified to
practise

CHAPTER 7

ORDINANCES OF THE YUKON TERRITORY

1970 (Third Session)

AN ORDINANCE TO AMEND THE
LOCAL IMPROVEMENT DISTRICT ORDINANCE

(Assented to July 3, 1970)

O. Y. T.
1965 (2nd)
c. 1
1967 (2nd)
c. 11

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. The *Local Improvement District Ordinance* is amended by repealing subsection (1) of section 9, substituting the following therefor:

“(1) The Board of Trustees shall meet openly at least once a month and no person shall be excluded from any open meeting except for improper conduct.”

CHAPTER 8

ORDINANCES OF THE YUKON TERRITORY

1970 (Third Session)

AN ORDINANCE TO AMEND THE
TAXATION ORDINANCE*(Assented to June 25, 1970)*

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. The *Taxation Ordinance* is amended by repealing paragraph (j) of section 3 thereof.

2. Section 3 of the said Ordinance is further amended by adding thereto the following new subsection:

“(2) All buildings, fixtures, machinery and things erected upon or under land or that are otherwise affixed thereto and used solely for the purpose of obtaining minerals from the ground or for the concentrating or otherwise processing of minerals shall not be liable to taxation until the fiscal year following that in which commercial production first commences.”

3. The said Ordinance is further amended by repealing subsection (2) of section 50 thereof and substituting the following therefor:

“(2) The Commissioner may vary the rate of tax levied under this section according to the location or use of the real property to be taxed.”

4. Subsections (2) and (3) of section 50B are repealed.

O. Y. T.
1959 (2nd)
c. 2
1960 (1st)
c. 5
1961 (1st)
c. 4
1963 (1st)
c. 6
1966 (2nd)
c. 6
1967 (1st)
c. 10
1967 (1st)
c. 17
1697 (2nd)
c. 18
1968 (3rd)
c. 3
1969 (2nd)
c. 1

