

YUKON
TERRITORY

REVISED
ORDINANCES

1971

Vol. I

Chap. A-1 to J-3

REVISED ORDINANCES OF THE YUKON TERRITORY 1971

VOLUME I

Chap. A-1/J-3

Being a Revision of the *Consolidated Ordinances of the Yukon Territory, 1958*, with the subsequent Public General Ordinances consolidated to the 31st day of December, 1971.

Proclaimed to come into operation on the 1st day of April, 1972, pursuant to Chapter 2 of the Ordinances of 1971 (Third Session), *An Ordinance Respecting the Revised Ordinances of the Yukon Territory, 1971*.



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TABLE OF CONTENTS

VOLUME I

		Page
An Ordinance Respecting the Revised Ordinances of the Yukon Territory, 1971..		vii
Schedule A—Revised Ordinances		xi
CHAPTER	SHORT TITLE	
A-1	Apprentice Training	1
A-2	Arbitration	7
A-3	Archives	17
A-4	Area Development	21
A-5	Assignment of Book Debts	23
B-1	Bills of Sale	31
B-2	Blasting	49
B-3	Brands	55
B-4	Bulk Sales	63
B-5	Business Licence	71
C-1	Cancer Diagnosis	75
C-2	Cemeteries and Burial Sites	77
C-3	Change of Name	79
C-4	Child Welfare	87
C-5	Chiropractic	121
C-6	Choses in Action	129
C-7	Citizenship Instruction Agreement	131
C-8	Civil Emergency Measures	133
C-9	Collection	137
C-10	Companies	143
C-11	Conditional Sales	309
C-12	Condominium	319
C-13	Consumers' Protection	339
C-14	Contributory Negligence	393
C-15	Controverted Elections	395
C-16	Co-operative Associations	403
C-17	Cornea Transplant	421
C-18	Coroners	423
C-19	Corporation Securities Registration	445
C-20	Court of Appeal	451
C-21	Credit Unions	455
C-22	Creditors' Relief	477
C-23	Curfew	495
D-1	Defamation	497
D-2	Dental Profession	505
D-3	Dependants' Relief	513
D-4	Devolution of Real Property	519
D-5	Disabled Persons' Allowance	525
D-6	Distress	529
D-7	Dog	533
E-1	Elections	537
E-2	Electrical Protection	549
E-3	Elevator and Fixed Conveyances	555
E-4	Employment Agencies	561
E-5	Engineering Profession	563
E-6	Evidence	577
E-7	Exemptions	603
E-8	Expropriation	605

CHAPTER	SHORT TITLE	PAGE
F-1	Factors.....	615
F-2	Fair Practices.....	621
F-3	Fatal Accidents.....	627
F-4	Financial Administration.....	631
F-5	Fire Prevention.....	645
F-6	Fitness and Amateur Sport Agreement.....	657
F-7	Flag.....	659
F-8	Floral Emblem.....	661
F-9	Forest Protection.....	663
F-10	Frustrated Contracts.....	673
F-11	Fuel Oil Tax.....	677
F-12	Fur Export.....	683
G-1	Game.....	687
G-2	Gaols.....	723
G-3	Garage Keepers' Lien.....	725
G-4	Garnishee.....	733
H-1	Health Care Insurance Plan.....	741
H-2	Historic Sites and Monuments.....	751
H-3	Hospital Insurance Services.....	755
H-4	Hotels and Tourist Establishments.....	761
H-5	Housing.....	769
H-6	Housing Development.....	771
I-1	Immunity of Members.....	779
I-2	Insurance.....	781
I-3	Interpretation.....	863
I-4	Intestate Succession.....	877
J-1	Judicature.....	881
J-2	Jury.....	907
J-3	Justice of the Peace.....	921

VOLUME II

L-1	Labour Standards.....	923
L-2	Landlord and Tenant.....	941
L-3	Lands.....	969
L-4	Legal Profession.....	971
L-5	Legal Profession Accounts.....	981
L-6	Legitimation.....	987
L-7	Limitation of Actions.....	989
L-8	Liquor.....	1007
L-9	Local Improvement District.....	1039
L-10	Lord's Day.....	1047
L-11	Low Cost Housing.....	1053
M-1	Magistrate's Court.....	1055
M-2	Maintenance.....	1065
M-3	Marriage.....	1071
M-4	Married Women's Property.....	1097
M-5	Mechanics' Lien.....	1101
M-6	Medical Profession.....	1113
M-7	Mental Health.....	1123
M-8	Miners' Lien.....	1127
M-9	Mining Safety.....	1137
M-10	Motion Pictures.....	1157
M-11	Motor Vehicles.....	1163
N-1	Newspaper.....	1235
N-2	Noise Prevention.....	1237
N-3	Notaries.....	1239
O-1	Old Age Assistance and Blind Persons' Allowance.....	1243
O-2	Optometry.....	1247
P-1	Partnership.....	1253

CHAPTER	SHORT TITLE	PAGE
P-2	Pawnbrokers and Second-Hand Dealers.....	1275
P-3	Perpetuities.....	1279
P-4	Pharmaceutical Chemists.....	1287
P-5	Plebiscite.....	1303
P-6	Pounds.....	1305
P-7	Presumption of Death.....	1311
P-8	Public Health.....	1313
P-9	Public Printing.....	1323
P-10	Public Service.....	1325
P-11	Public Service Staff Relations.....	1339
R-1	Reciprocal Enforcement of Judgments.....	1383
R-2	Reciprocal Enforcement of Maintenance Orders.....	1387
R-3	Recording of Evidence by Sound Apparatus.....	1395
R-4	Regulations.....	1397
R-5	Rehabilitation Services.....	1401
S-1	Sale of Goods.....	1405
S-2	Saw Logs Driving.....	1425
S-3	School.....	1431
S-4	Scientists and Explorers.....	1465
S-5	Securities.....	1467
S-6	Social Assistance.....	1491
S-7	Societies.....	1497
S-8	Steam Boilers.....	1515
S-9	Students' Grants.....	1527
S-10	Superannuation, Territorial Employees'.....	1529
S-11	Survivorship.....	1531
T-1	Tenants in Common.....	1533
T-2	Territorial Court.....	1535
T-3	Trade Schools Regulation.....	1539
T-4	Transport Public Utilities.....	1543
T-5	Trustee.....	1557
V-1	Variation of Trusts.....	1577
V-2	Vital Statistics.....	1579
W-1	Wages Recovery.....	1611
W-2	Warehousemen's Lien.....	1619
W-3	Wills.....	1623
W-4	Woodmen's Lien.....	1635
W-5	Workmen's Compensation.....	1645
Schedule B—Ordinances and Portions of Ordinances Repealed.....		1689
APPENDIX		
	List of Ordinances and Parts of Ordinances Not Repealed and Not Consolidated.....	1697
	Yukon Act (Office Consolidation).....	1711
	Northern Inland Waters Act (Office Consolidation).....	1729
	Territorial Lands Act (Office Consolidation).....	1747
	Yukon Placer Mining Act (Office Consolidation).....	1755
	Yukon Quartz Mining Act (Office Consolidation).....	1789

Revised Ordinances of the Territory

REVISED ORDINANCES OF THE TERRITORY

1. In this Ordinance, "Revised Ordinances" means the Revised Ordinances of the Yukon Territory, 1971. "Revised Ordinances"

2. (1) Subject to this Ordinance, the Ordinances contained in Schedule A are hereby declared to be law as though they were enacted by this Ordinance. Confirmation

(2) The Revised Ordinances shall come into force on the first day of April, 1972, or such earlier day as may be fixed by order of the Commissioner. Coming into force

3. Subject to this Ordinance, from the coming into force of the Revised Ordinances, the Ordinances and portions of Ordinances in Schedule B are repealed to the extent mentioned in the fourth column of that Schedule. Repeal of Ordinances

4. The repeal of the Ordinances and portions of Ordinances in Schedule B does not revive any Ordinance or provision of law repealed by any of them, nor does the repeal prevent the effect of any saving clause in any of those Ordinances or portions of Ordinances, or of the application of any of those Ordinances or portions of Ordinances, or of any Ordinance or provision of law formerly in force, to any transaction, matter or thing anterior to the repeal to which they would otherwise apply. Effect of repeal

5. The repeal of the Ordinances and portions of Ordinances in Schedule B does not defeat, disturb, invalidate or affect

(a) any penalty, forfeiture or liability, civil or criminal, incurred prior to the time of the repeal, or any proceeding for enforcing it, had, done, completed or pending at the time of the repeal; Penalties, etc.

(b) any indictment, information, conviction, order, sentence or prosecution had, done, completed or pending at the time of the repeal; Indictments, etc.

(c) any action, suit, judgment, decree, certificate, execution, distress, process, order, rule or any proceeding, Actions, etc.

Revised Ordinances of the Territory

- matter or thing whatsoever respecting it, had, pending, existing or in force at the time of the repeal ;
- Acts, deeds, rights, etc. (d) any act, deed, right, title, interest, grant, assurance, descent, will, registry, filing, by-law, rule, order-in-council, proclamation, regulation, order, contract, lien, charge, status, capacity, immunity, matter or thing had, done, made, acquired, established or existing at the time of the repeal ;
- Offices, etc. (e) any office, appointment, commission, salary, remuneration, allowance, security or duty or any matter or thing appertaining thereto at the time of the repeal ;
or
- Other matters (f) any other matter or thing whatsoever had, done, completed, existing or pending at the time of the repeal ;

and the same shall remain and continue as if the repeal had not taken place, and, so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the Revised Ordinances and the other Ordinances and laws in force in the Territory, and, subject to the provisions of the several Ordinances and laws, as if the repeal had not taken place.

Not new laws **6.** (1) The Revised Ordinances shall not be held to operate as new laws, but shall be construed and have effect as a consolidation and as declaratory of the law as contained in the Ordinances and portions of Ordinances so repealed, and for which the Revised Ordinances are substituted.

When effective (2) The various provisions of the Revised Ordinances corresponding to, and substituted for, the provisions of the Ordinances and portions of Ordinances so repealed shall, where they are the same in effect as the Ordinances and portions of Ordinances so repealed, be held to operate retrospectively as well as prospectively and to have been enacted or to have become effective upon the days respectively upon which the Ordinances and portions of Ordinances so repealed came into effect or from which they were stated to be effective, as the case may be.

Construction where Ordinances differ (3) If, upon any point, the provisions of the Revised Ordinances are not in effect the same as those of the repealed Ordinances and portions of Ordinances for which they are substituted, then as respects all transactions, matters and things subsequent to the coming into force of the Revised Ordinances, the provisions contained in the Revised Ordinances shall prevail, but as respects all transactions, matters and things anterior to that time, the provisions of the

Revised Ordinances of the Territory

repealed Ordinances and portions of Ordinances shall prevail.

7. A reference in any Ordinance enacted prior to the coming into force of the Revised Ordinances and remaining in force after that time, or in any instrument or document, to any Ordinance or portion of any Ordinance so repealed shall, from and after the coming into force of the Revised Ordinances, be held as regards any subsequent transaction, matter or thing to be a reference to the enactments in the Revised Ordinances having the same effect as the repealed Ordinance or portion of it.

Reference to provisions in repealed Ordinances

8. The inclusion of any Ordinance in Schedule B shall not be construed as a declaration that the Ordinance or any portion of it was or was not in force immediately prior to the coming into force of the Revised Ordinances.

Effect of inclusion in Schedule

9. (1) Copies of the Revised Ordinances purporting to be printed by the Queen's Printer shall be received as evidence of such Revised Ordinances in all courts and places whatsoever, without further proof of any kind.

Copies of Ordinances as evidence

(2) The Queen's Printer may print and publish an edition of the Revised Ordinances in what is commonly known as a looseleaf form so that the separate pages thereof are not bound together but are punched so that they may be conveniently held together by a temporary fastening and removed or new pages inserted, or both, from time to time.

Authority for looseleaf edition

(3) Where the Queen's Printer prints and publishes an edition of the Revised Ordinances as provided in subsection (2), he may also print and publish in similar looseleaf form, punched in the manner and for the purpose mentioned in subsection (2).

Publication of amendments, etc.

(a) any amendment subsequently made by an Ordinance of the Yukon Territory to any Ordinance included in the Revised Ordinances, and

(b) any new Ordinance enacted, and that is either

(i) substituted for, and replacing, an Ordinance that is included in the Revised Ordinances, and that is repealed by the new Ordinance, or

(ii) not included in the Revised Ordinances,

notwithstanding that, in printing any amendment to which paragraph (a) applies, it may be necessary for the purpose of including it in its proper place on a page, to reprint part of an Ordinance that is not so amended.

Revised Ordinances of the Territory

- Interpretation** **10.** Except as otherwise provided in this Ordinance, the rules of construction and interpretation set forth in the *Interpretation Ordinance*, Chapter I-3 of the Revised Ordinances of the Yukon Territory, 1971, apply to the Revised Ordinances and to this Ordinance.
- Citation** **11.** Any Ordinance included in the Revised Ordinances may be cited or referred to in any Ordinance or proceedings either by its title as an Ordinance or its short title as indicated therein, together with the expression "chapter . . . of the Revised Ordinances of the Yukon Territory, 1971".
- Publication of Ordinance** **12.** A copy of this Ordinance may be printed in both the bound and looseleaf editions of the Revised Ordinances and may be printed and published with the Ordinances enacted at the Session of the Council during which this Ordinance is enacted.
- Publication of appendices** **13.** The Commissioner may cause to be printed in both the bound and looseleaf editions of the Revised Ordinances, appendices containing :
- (a) a list of Ordinances and portions of Ordinances not repealed and not consolidated;
 - (b) office consolidations of any federal acts; and
 - (c) any Orders-in-Council or regulations made under the authority of a federal act.

SCHEDULE A

REVISED ORDINANCES

OF THE

YUKON TERRITORY

1971

CHAPTER A-1

APPRENTICE TRAINING ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Apprentice Training Ordinance*. 1964 (2nd) c. 1, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“apprentice” means a person who has entered into an agreement with the Commissioner, pursuant to section 6, under which that person undertakes to pursue a course of training in a designated occupation ; “apprentice”

“designated occupation” means an occupation designated in the Schedule or designated by the Commissioner. 1964 (2nd) c. 1, s. 2. “designated occupation”

ADMINISTRATION

3. (1) The Commissioner shall appoint a Superintendent of Apprentice Training who is charged with the administration of this Ordinance and who shall perform such duties and have such powers as the Commissioner may direct. 1964 (2nd) c. 1, s. 3. Superintendent of Apprentice Training

4. (1) The Commissioner may appoint inspectors of apprentice training who shall act under the direction of the Superintendent of Apprentice Training and who shall perform such duties and have such powers as the Commissioner may direct. 1964 (2nd) c. 1, s. 4. Inspectors of apprentice training

5. (1) There shall be a Board to be known as the Apprentice Advisory Board, and to consist of three members. Apprentice Advisory Board established

(2) The Superintendent of Apprentice Training shall be a member of the Apprentice Advisory Board and shall be chairman. Superintendent of Apprentice Training to be chairman

(3) The Commissioner shall appoint the other two members of the Apprentice Advisory Board, one of whom shall be an employer of persons in a designated occupation and the other an employee in a designated occupation, who shall hold office during pleasure. Commissioner to appoint two members

Remuneration (4) The members of the Apprentice Advisory Board shall be paid such remuneration and compensation as may be determined by the Commissioner.

Powers and duties (5) The Apprentice Advisory Board shall perform such duties and have such powers as the Commissioner may direct. 1964 (2nd) c. 1, s. 5.

AGREEMENTS

Agreement between Commissioner and person who wishes to be trained 6. (1) The Commissioner may enter into a written agreement with any person who (a) wishes to pursue a course of training in a designated occupation; (b) is at least sixteen years of age; and (c) resides in the Yukon Territory, upon such terms and conditions as the Commissioner may think fit, to provide for the training of that person in a designated occupation.

Who shall sign (2) An agreement referred to in subsection (1) is not binding upon the parties unless it is in writing and is signed (a) by the Commissioner, (b) by the person who wishes to pursue a course of training in a designated occupation, and (c) by a parent or guardian if such person is a minor and resides with his parent or guardian.

Agreement binding on minor (3) An agreement entered into by a minor pursuant to this section is binding upon such minor as if he had been of full age and capacity at the time the agreement was entered into. 1964 (2nd) c. 1, s. 6.

Agreement between Commissioner and employer 7. (1) The Commissioner may enter into an agreement with any person who (a) wishes to employ an apprentice, and (b) is capable of providing a course of practical training in a designated occupation, upon such terms and conditions as the Commissioner may think fit, to provide for the practical training of an apprentice in that designated occupation. 1964 (2nd) c. 1, s. 7.

GRANTS

Grants to apprentices and others 8. (1) The Commissioner may make grants of money and provide goods or services to apprentices or to other persons employed in designated occupations, upon such terms and

conditions as the Commissioner may prescribe. 1964 (2nd) c. 1, s. 8.

REGULATIONS

- 9. (1) The Commissioner may make regulations** Regulations
- (a) designating occupations to which this Ordinance applies;
 - (b) prescribing the qualifications necessary to become an apprentice in any designated occupation and the manner of establishing qualifications;
 - (c) prescribing the duration, nature and scope of the practical and theoretical training to be received by an apprentice in any designated occupation;
 - (d) providing for changes in the duration, nature and scope of practical or theoretical training of apprentices who have had experience in a designated occupation before becoming apprentices;
 - (e) prescribing the conditions under which agreements entered into pursuant to section 6 or 7 may be terminated or cancelled;
 - (f) prescribing the duties and obligations that shall be imposed upon and observed by an apprentice in respect of his employer;
 - (g) prescribing the duties and obligations that shall be imposed upon and observed by an employer in respect of the apprentice employed by him;
 - (h) providing for the appointment of examining boards and prescribing the duties and remuneration of members;
 - (i) providing for the examination of apprentices, persons wishing to become apprentices and persons employed in designated occupations; and establishing the standards for examination;
 - (j) providing for the issuance of certificates of status, certificates of completion of apprenticeship and other certificates of competence or proficiency, and prescribing the conditions for the issuance of the certificates;
 - (k) providing for the issuance of identification cards and requiring the production of such cards under certain conditions;
 - (l) providing for the recognition of certificates of occupational status or their equivalent, issued by any province of Canada and prescribing the conditions for the issuance of certificates of status, certificates of completion of apprenticeship or other certificates of competence or proficiency to the holders thereof;

- (m) prescribing the working conditions, hours of labour and rates of wages for apprentices;
- (n) prescribing the powers and duties of the Apprentice Advisory Board;
- (o) prescribing the powers and duties of the Superintendent of Apprenticeship Training;
- (p) prescribing the powers and duties of the inspectors of apprentice training;
- (q) providing for inspection of the training of apprentices;
- (r) providing for a system for recording the progress of the training of apprentices;
- (s) providing for the keeping of records accessible to the public;
- (t) providing for the making of grants of money to apprentices and other persons employed in designated occupations, and prescribing the conditions for eligibility, for the amount of and the manner of repayment of grants;
- (u) providing for the provision of goods or services to apprentices and other persons employed in designated occupations and prescribing the conditions for eligibility for such provision, the amounts to be provided and the manner of providing goods or services;
- (v) providing for the repayment of any grant made to an apprentice or to a person employed in a designated occupation, providing for the repayment of the value of any goods or services directed to an apprentice or to a person employed in a designated occupation, and prescribing the conditions upon which such repayment is required and the manner in which such repayment is made;
- (w) prescribing forms used for the purpose of this Ordinance and the regulations;
- (x) requiring payment of fees and prescribing the amount of fees paid in respect of any agreement, examination, perusal or search of records, for the issuance of any certificate or other document or for any other service provided pursuant to this Ordinance or the regulations;
- (y) prescribing a fine not exceeding five hundred dollars or imprisonment not exceeding six months or both fine and imprisonment to be imposed upon summary conviction as a penalty for violation of a regulation; and
- (z) generally for the carrying out of the purposes and to give effect to the provisions of this Ordinance. 1964 (2nd) c. 1, s. 9.

GENERAL

10. (1) All expenditures for the purposes of this Ordinance shall be paid out of money appropriated by the Commissioner in Council. Expenditures to be voted

(2) It is a term of every agreement entered into pursuant to this Ordinance providing for the payment of any money by the Commissioner that payment is subject to there being an appropriation of money by the Commissioner in Council for the purpose of discharging that commitment in the fiscal year in which the payment becomes due and is payable. 1964 (2nd) c. 1, s. 10. Payments under agreements must be voted

SCHEDULE I

1. Aero-Engine Mechanics
2. Air-Frame Mechanics
3. Auto-Mechanics (Mechanical)
4. Auto-Mechanics (Bodywork)
5. Automotive Partsman
6. Barber
7. Carpenter
8. Diesel Mechanics
9. Electrician
10. Equipment Mechanic
11. Grader (Lumber)
12. Heating & Ventilation Mechanic
13. Heavy Duty Equipment Mechanic
14. Heavy Duty Equipment Operator
15. Hairdresser
16. Machinist
17. Millwright
18. Office Equipment Mechanic
19. Painter & Decorator
20. Power Plant Operator (Diesel)
21. Plumber
22. Sawyer
23. Scaler (Lumber)
24. Stationary Engineer

1964 (2nd) c. 1, Sched.

CHAPTER A-2

ARBITRATION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Arbitration Ordinance*. R.O. 1958, c. 6, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“arbitrator” includes an umpire and a referee in the nature of an arbitrator; “arbitrator”

“award” includes umpirage and a certificate in the nature of an award; “award”

“submission” means a written agreement to submit differences to arbitration, whether or not an arbitrator is named in the agreement. “submission”

(2) The Commissioner may make rules of practice and procedure, including tariffs of fees and costs, for the better carrying out of the purposes of this Ordinance and for regulating the practice hereunder, and, until other rules are so made, the Rules of Court established under the *Judicature Ordinance* apply *mutatis mutandis* to all causes, matters and proceedings under this Ordinance. R.O. 1958, c. 6, s. 2. Rules of Court

APPLICATION

3. (1) This Ordinance applies to submissions made before as well as after the commencement of this Ordinance. R.O. 1958, c. 6, s. 3. Retrospective effect

4. (1) This Ordinance applies to every arbitration under any Ordinance whenever passed as if the arbitration were pursuant to a submission, except in so far as this Ordinance is inconsistent with the Ordinance regulating the arbitration or with rules or procedure authorized or recognized by that Ordinance. R.O. 1958, c. 6, s. 4. Other Ordinances

REFERENCE BY SUBMISSION

5. (1) Unless a contrary intention is expressed in a submission or a judge allows a submission to be revoked, a submission Submission irrevocable

sion is irrevocable and has the same effect as if it had been made an order of a judge.

Effect of death of party

(2) A submission is not revoked by the death of the parties to it or either of them. R.O. 1958, c. 6, s. 5.

When no other mode expressed

6. (1) Where no other mode of reference is provided in a submission, the reference shall be to a single arbitrator. R.O. 1958, c. 6, s. 6.

Umpire

7. (1) Where the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award. R.O. 1958, c. 6, s. 7.

Where arbitrator fails to act

8. (1) Where an arbitrator refuses to act or is incapable of acting or dies, the party by whom he was appointed may appoint an arbitrator in his stead, and this power may be exercised as vacancies occur.

Where umpire fails to act

(2) Where an umpire refuses to act or is incapable of acting or dies, the arbitrators by whom he was appointed may appoint an umpire in his stead, and this power may be exercised as vacancies occur. R.O. 1958, c. 6, s. 8.

Umpire to act where arbitrators cannot agree

9. (1) Where the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the submission or to the umpire a notice, in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators. R.O. 1958, c. 6, s. 9.

Removal for misconduct

10. (1) Where a judge is satisfied upon evidence submitted to him by a party to the submission that an arbitrator or umpire has misconducted himself in the arbitration, the judge may remove the arbitrator or umpire and may appoint an arbitrator or umpire in his stead. R.O. 1958, c.6, s. 10.

STAY OF PROCEEDINGS

Stay of proceedings

11. (1) Where a party to a submission or a person claiming through or under him commences legal proceedings against any other party to the submission or any person claiming through or under him, in respect of a matter agreed to be referred, a party to such proceedings may, after service upon him of a statement of claim and before he takes any step in the proceedings, apply to a judge for a stay of proceedings, and the judge, if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the

submission and that the applicant was, at the time when the proceedings were commenced, ready and willing to do all things necessary to the proper conduct of the arbitration and still remains ready and willing to do so, may make an order staying the legal proceedings. R.O. 1958, c. 6, s. 11.

APPOINTMENT OF ARBITRATOR OR UMPIRE BY A JUDGE

12. (1) In any of the following cases

Service of notice
in certain cases

- (a) where a submission provides that the reference is to a single arbitrator and the persons whose concurrence is necessary do not, after differences have arisen, concur in the appointment of an arbitrator,
- (b) where an arbitrator or an umpire is to be appointed by any person and that person does not make the appointment, or
- (c) where an arbitrator or umpire refuses to act or is incapable of acting or dies and the person having the right to appoint a person to fill the vacancy has not made the appointment,

a party may serve the other party or the arbitrators or the person who has the right to make the appointment, as the case may be, with a written notice to concur in the appointment of a single arbitrator or to appoint an arbitrator or umpire.

(2) Where an appointment is not made within seven clear days after the service of the notice referred to in subsection (1), a judge may, on application by the person who gave notice, appoint an arbitrator or umpire.

Appointment by
judge

(3) An arbitrator or umpire appointed under subsection (2) has the like powers to act in the reference and to make an award as if he had been appointed by consent of all parties. R.O. 1958, c. 6, s. 12.

Arbitrators'
powers

POWERS OF ARBITRATORS

13. (1) Unless a submission expresses a contrary intention, an arbitrator or umpire acting under the submission has power

Powers

- (a) to administer oaths to the parties and witnesses,
- (b) to state an award as to the whole or any part thereof in the form of a special case for the opinion of a judge, and
- (c) to correct, in an award, any clerical mistake or error arising from an accidental slip or omission.

Idem. (2) An arbitrator or umpire 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 question of law arising in the course of the reference. R.O. 1958, c. 6, s. 13.

WITNESSES AND EVIDENCE

Application of Evidence Ordinance 14. (1) All provisions of the *Evidence Ordinance* that are not inconsistent with this Ordinance apply to proceedings under this Ordinance. R.O. 1958, c. 6, s. 14.

Compulsory attendance of witnesses 15. (1) A party to a submission may obtain a subpoena or other notice under the Rules of Court to compel the attendance of a witness, but no person is compelled to produce a document that he would not have to produce on the trial of an action. R.O. 1958, c. 6, s. 15.

Evidence de bene esse 16. (1) Where a party to a submission desires to procure for use upon the reference the evidence of a person to be taken *de bene esse* or to be taken out of the Territory, an order may be made for the examination of such person or for the issue of a commission in the like circumstances and with the like effect as a similar order made in an action.

(2) The *Judicature Ordinance* and Rules of Court apply to an order or commission under subsection (1) and to the proceedings thereon and the evidence taken thereunder. R.O. 1958, c. 6, s. 16.

Duty of parties 17. (1) A party to a reference or a person claiming under him shall, subject to any legal objection, submit to be examined by an arbitrator or umpire on oath in relation to the matters in dispute and shall, subject to any legal objection, produce before the arbitrator or umpire all books, deeds, papers, goods, documents and things in his possession or power that are required or called for and shall do all other things that during the proceedings on the reference the arbitrator or umpire requires. R.O. 1958, c. 6, s. 17.

Oath 18. (1) Witnesses on a reference shall be examined on oath. R.O. 1958, c. 6, s. 18.

Evidence of prisoners 19. (1) A judge may order a sheriff, gaoler or other officer who has the custody of a prisoner to produce him for examination before an arbitrator or an umpire. R.O. 1958, c. 6, s. 19.

Copies 20. (1) An arbitrator or an umpire, where no special reason appears to him to exist for filing an original book,

paper or document as an exhibit, may allow a copy of the whole or a portion thereof as he may deem material to be substituted as an exhibit in the place of the original book, paper or document. R.O. 1958, c. 6, s. 20.

AWARDS

21. (1) An arbitrator shall make his award in writing Arbitrator's time
to make award

(a) within three months after entering on the reference,

(b) within three months after having been called on to act by notice in writing from a party to the submission, or

(c) on or before any later date to which all the parties to the submission, by a writing signed by them, may increase the time for making the award. R.O. 1958, c. 6, s. 21.

22. (1) An umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired or on or before any later date to which the persons who appointed him, by any writing signed by them, may increase the time for making his award. Umpire's time to
make award
R.O. 1958, c. 6, s. 22.

23. (1) Upon application made to a judge by an arbitrator or umpire, time for making an award may be increased by the judge, whether or not the time for making the award has expired. Extension by
judge
R.O. 1958, c. 6, s. 23.

24. (1) Where, upon an application by a party to a submission, a judge is satisfied that a reference requires further consideration by an arbitrator or an umpire, the judge may remit the matters referred or any of them to the arbitrator or the umpire for further consideration. Remitting the
award

(2) Unless the judge otherwise directs, where a reference is remitted to an arbitrator or an umpire under subsection (1), the arbitrator or the umpire shall make the award within three months after the date of the remission. R.O. 1958, c. 6, s. 24.

25. (1) An award shall be delivered to any of the parties to a submission requiring the same and the personal representatives of a deceased party may require delivery of the award. Delivery
R.O. 1958, c. 6, s. 25.

26. (1) An award may, by leave of a judge, be enforced in the same manner as a judgment or an order to the same effect. Enforcement
R.O. 1958, c. 6, s. 26.

APPEALS

Award is final

27. (1) Subject to sections 28 and 29 respecting appeals and setting aside awards, an award made by an arbitrator or by a majority of arbitrators or by an umpire is final and binding on all the parties to the reference and the persons claiming under them respectively. R.O. 1958, c. 6, s. 27.

Where submission allows an appeal

28. (1) Where it is agreed by the terms of a submission that there may be an appeal from the award, the reference shall be conducted and an appeal lies to a judge within the time stated in the submission or if no time is stated within six weeks after the delivery of the award to the appellant.

Evidence

(2) The evidence of the witnesses examined upon the reference shall be taken down in writing and together with the exhibits, shall, at the request of either party, be transmitted by the arbitrator or the umpire to the judge.

Statement by arbitrator in certain cases

(3) Where the award of an arbitrator or an umpire is based wholly or partly upon his physical examination of property or upon special knowledge or skill possessed by him, he shall transmit to the judge a written statement thereof that will enable the judge to form an opinion of the weight that should be attached to the physical examination performed by the arbitrator or umpire or to his special knowledge or skill in reaching the award. R.O. 1958, c. 6, s. 28.

Setting aside award

29. (1) Whether or not a submission provides for an appeal from an award, a party to a submission or a person claiming under him may apply to a judge to set aside an award on the grounds

(a) that an arbitrator or umpire has misconducted himself, or

(b) that an arbitration or an award has been improperly procured,

and the judge may, in his discretion, dismiss the application or set aside the award.

Production of exhibits

(2) Upon an application under subsection (1), a party may by notice require any other party to produce, and the party so required shall produce, upon the hearing of the application, any original book, paper or document in his possession that has been used as an exhibit or given in evidence upon the reference and that has not been filed with the deposition supporting the application. R.O. 1958, c. 6, s. 29.

30. (1) Unless by leave of a judge, application to set aside an award, other than by way of appeal, shall not be made after six weeks from the delivery of the award to the applicant. R.O. 1958, c. 6, s. 30. Time for appeal

31. (1) Where an appeal from an award is allowed or an award is set aside the judge who allowed the appeal or set aside the award may give directions as to the costs of the appeal or of the application to set aside the award and the costs of the reference and award. R.O. 1958, c. 6, s. 31. Costs of appeal

COSTS

32. (1) The costs of a reference and award are in the discretion of the arbitrator or umpire who may direct to and by whom and in what manner the costs or any part thereof shall be paid. R.O. 1958, c. 6, s. 32. Costs of reference

33. (1) A judge may make an order under this Ordinance on such terms as to costs or otherwise as he thinks just. R.O. 1958, c. 6, s. 33. Costs of orders

FEEES

34. (1) Where an arbitrator or umpire takes upon himself the burden of a reference and award in respect of which a submission or other agreement between the parties to the submission has, to their knowledge, set out his fees for each day's attendance or a gross sum for the entire reference, the fees or sum so set out are substituted for the fees referred to in Schedules I and II. R.O. 1958, c. 6, s. 34. Where fixed by agreement

35. (1) Subject to section 34, an arbitrator or umpire who is not by profession a barrister, solicitor, engineer, architect, chartered accountant or Dominion land surveyor, is not entitled to demand or take for his attendance and services as an arbitrator or umpire any greater fees than those mentioned in Schedule I. R.O. 1958, c. 6, s. 35. Non-professional arbitrators

36. (1) Subject to section 34, an arbitrator or umpire who is by profession a barrister, solicitor, engineer, architect, chartered accountant or Dominion land surveyor, is not entitled to demand or take for his attendance and services as an arbitrator or umpire any greater fees than those mentioned in Schedule II. R.O. 1958, c. 6, s. 36. Professional arbitrators

Limit of witness fees

37. (1) No greater fees are taxable in respect of a person called as a witness before an arbitrator than would be taxed in an action. R.O. 1958, c. 6, s. 37.

Where no business done at meeting

38. (1) Where, at an arbitration meeting in respect of which due notice has been given, no proceedings are taken as a result of the absence of any party to a submission or as a result of a postponement at the request of any party, the arbitrator shall make up an account of the costs of the meeting, including the proper charges for his own attendance and that of any witnesses and of the counsel or solicitor of the party present who does not desire the postponement, and, unless he considers that it would be unjust to do so, he shall charge the amount thereof against the party in default or at whose request the postponement is made.

Idem.

(2) The party in default or who has requested a postponement shall where an amount is charged against him under subsection (1) pay the same to the other party, whatever may be the event of the reference, and the arbitrator shall, in the award, make any direction necessary for that purpose and the amount so charged may be set off against and deducted from any amount awarded in his favour. R.O. 1958, c. 6, s. 38.

Taxation of costs

39. (1) A party to an arbitration is entitled to have the costs of the arbitration, including the fees of the arbitrator, or, if he so wishes, the arbitrator's fees alone, taxed by the Clerk of the Court upon an appointment which may be given by the Clerk of the Court for that purpose. R.O. 1958, c. 6, s. 39.

Penalty for excessive fees

40. (1) An arbitrator who, having entered upon a reference, refuses or delays after the expiration of one month from the publication of the award to deliver the award until a larger sum is paid to him for his fees than is permitted under this Ordinance or who received for his award or for his fees as an arbitrator such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain the award or as a consideration for having obtained it, an amount three times the excess demanded or received by the arbitrator contrary to this Ordinance.

Action for penalty

(2) The penalty referred to in subsection (1) may be recovered by action before a judge. R.O. 1958, c. 6, s. 40.

41. (1) Where an award has been made, an arbitrator may maintain an action for his fees if the same have been taxed and, in the absence of an express agreement to the contrary, he may maintain such action against all parties to the reference, jointly or severally. R.O. 1958, c. 6, s. 41. Action for fees

VALUATORS

42. (1) A judge has power to appoint a valuator or an appraiser where it is provided by a written agreement that a valuation or an appraisal shall be made by a valuator or an appraiser. Appointment

(2) A valuator or appraiser appointed under subsection (1) shall have the like powers to make a valuation or appraisal as if he had been appointed by consent of all parties to the agreement. R.O. 1958, c. 6, s. 42. Powers

SCHEDULE I

FEEES CHARGEABLE BY NON-PROFESSIONAL ARBITRATORS

- 1. For every meeting where the reference is not proceeded with but a postponement is made due to the default of a party or at the request of a party,..... not less than \$3.00 and not more than \$10.00
- 2. For every day's sittings to consist of not less than six hours,not less than \$10.00 and not more than \$30.00
- 3. Where a day's sittings consists of more than six hours, for each additional hour,..... not less than \$2.00 and not more than \$5.00
- 4. Where a sittings does not extend to six hours, for each hour occupied,.....not less than \$2.00 and not more than \$5.00

R.O. 1958, c. 6, Sched. A.

SCHEDULE II

FEEES CHARGEABLE BY PROFESSIONAL ARBITRATORS

- 1. For every meeting where the reference is not proceeded with but a postponement is made due to the default of a party or at the request of a party,..... not less than \$6.00 and not more than \$15.00
- 2. For every day's sittings to consist of not less than six hours,not less than \$20.00 and not more than \$60.00
- 3. Where a day's sittings consists of more than six hours, for each additional hour,.....not less than \$5.00 and not more than \$10.00
- 4. Where a sittings does not extend to six hours, for each hour occupied,.....not less than \$5.00 and not more than \$10.00

R.O. 1958, c. 6, Sched. B.

CHAPTER A-3

ARCHIVES ORDINANCE

SHORT TITLE

- 1.** This Ordinance may be cited as the *Archives Ordinance*. Short title
1971 (1st) c. 2, s. 1.
- 2.** (1) In this Ordinance Definitions
“public records” means all original documents, parchments, “public records”
manuscripts, records, books, pamphlets, magazines, periodicals, maps, plans, photographs, letters, copies of letters, papers of all kinds or other documentary materials regardless of physical form or characteristic, deposited, on file, or held with or in any department or agency of the Government of the Territory or any municipal or other public office in the Territory, and includes any such documentary materials that were formerly part of the records or files of any such department, agency, or office. 1971 (1st) c. 2, s. 2.
- 3.** (1) The Commissioner may appoint an archivist to Appointment of archivist
carry out the provisions of this Ordinance. 1971 (1st) c. 2, s. 3.
- 4.** (1) Subject to the regulations all public records shall be Custody of all public records
delivered to the Archivist for safe keeping and custody within thirty years from the date on which such public records cease to be in current use. 1971 (1st) c. 2, s. 4.
- 5.** (1) The Archivist is authorized and directed to receive Responsibility of Archivist
and grant discharges for all public records transferred to him under this Ordinance and the Archivist is thereafter responsible for the safe keeping of the public records so transferred. 1971 (1st) c. 2, s. 5.
- 6.** (1) The objects of this Ordinance are Objects of Ordinance
- (a) the classification, safe keeping, indexing and cataloguing of all public records transferred to the Archivist under section 4;
 - (b) the discovery, collection and preservation of material having any bearing upon the history of the Territory;
 - (c) the copying and printing of important public documents relating to the legislative or general history of the Territory;

- (d) the collecting of all documents having in any sense a bearing upon the political or social history of the Territory and upon its agricultural, industrial, commercial and financial development ;
- (e) the collecting of municipal, school and church records ;
- (f) the collection and preservation of pamphlets, maps, charts, manuscripts, papers, books, photographs and other documentary materials regardless of physical form or characteristic, of general or local historic interest in the Territory ;
- (g) the collection and preservation of information respecting the early settlers of the Territory including pioneer experience, customs, mode of living, prices, wages, boundaries, areas cultivated or mined, home and social life ;
- (h) the collection and preservation of the correspondence of settlers, documents in private hands relating to public and social affairs and reports of local events of historic interest in domestic and public life ;
- (i) the conducting of research with a view to preserving the memory of the indigenous peoples in the Territory and their mode of living and customs ;
- (j) the conducting of research with a view to preserving the memory of pioneer settlers in the Territory and of their early exploits and the part taken by them in opening up and developing the Territory ; and
- (k) the stimulation of public interest in the history of the Territory by the dissemination of information to the public, by exhibitions and displays of materials preserved in the Archives and by granting to the public access to items preserved in the Archives subject to such precautions as may be necessary for their preservation. 1971 (1st) c. 2, s. 6.

Preservation of official documents

7. (1) Subject to the regulations no public records shall be destroyed or permanently removed without the knowledge and concurrence of the Archivist. 1971 (1st) c. 2, s. 7.

Certified copies

8. (1) A copy of any original document in the custody of the Archivist, certified under his hand to be a true copy, is *prima facie* evidence of the authenticity and correctness of such document. 1971 (1st) c. 2, s. 8.

Commissioner may determine when documents to be made public

9. (1) Where the public interest so requires the Commissioner may direct that any document transferred to the Archives will not be made available for public inspection for

such period of time as the Commissioner determines. 1971 (1st) c. 2, s. 9.

10. (1) The Archivist may acquire by gift, bequest, loan or purchase and place in the Archives for preservation, any document having any bearing upon the history of the Territory upon such terms and conditions as may be stated by the person giving, bequeathing, lending or selling the document. 1971 (1st) c. 2, s. 10.

Archivist may acquire documents under conditions

11. (1) Where any person is in possession or control of any public record he shall at the request of the Commissioner or his authorized officer forthwith deliver such public record to the Archivist. 1971 (1st) c. 2, s. 11.

Commissioner may request public records be delivered to Archivist

12. (1) The Commissioner may make regulations,

Regulations

- (a) respecting the duties of the Archivist ;
- (b) prescribing the public records that shall be transferred to the Archivist under this Ordinance and extending or reducing the period that shall elapse before any such public records are transferred to him ;
- (c) for the classification of archives in the custody of the Archivist and the preparation of proper calendars, catalogues and indexes for the purpose of making archives accessible for official, scientific and historical research ;
- (d) directing the manner in which public records shall be disposed of from time to time and the class of documents, papers, pamphlets or reports that shall be deemed to be archives ;
- (e) generally for carrying out the purposes and provisions of this Ordinance into effect ; and
- (f) prescribing any fees that may be required under this Ordinance. 1971 (1st) c. 2, s. 12.

13. (1) Nothing in this Ordinance shall be taken or be deemed to authorize the destruction or other disposition of any official document, paper, map, plan, report, memorandum or other matter in contravention of an Ordinance or an order of a Court or the Commissioner. 1971 (1st) c. 2, s. 13.

Nothing in Ordinance authorizes destruction of documents

CHAPTER A-4

AREA DEVELOPMENT ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Area Development Ordinance*. R.O. 1958, c. 7, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance "development area" means an area designated as such by the Commissioner. R.O. 1958, c. 7, s. 2 "development area" defined

POWERS OF COMMISSIONER

3. (1) The Commissioner may designate as a development area any area in the Territory where he considers that it will be necessary in the public interest to regulate the orderly development of such area as contemplated by this Ordinance. R.O. 1958, c. 7, s. 3. Commissioner may designate development area

4. (1) The Commissioner may make regulations for the orderly development of a development area respecting Regulations

- (a) the zoning of the area, including the allocation of land in the area for agricultural, residential, business, industrial, educational, public or other purposes;
- (b) the regulation or prohibition of the erection, maintenance, alteration, repair or removal of buildings;
- (c) streets, roads, lanes, sidewalks, parks, street lighting and street transit;
- (d) public health, including the supply, treatment and purification of water, the collection and disposal of garbage and other sewage, hospitals, and the burial of destitute persons;
- (e) fire protection;
- (f) animals;
- (g) the regulation or the prohibition of the discharge of guns or other firearms within a development area.

(2) The Commissioner shall cause to be tabled any regulation made by him at the Session of Council next following the making of such regulation. R.O. 1958, c. 7, s. 4; 1963 (2nd) c. 8, s. 1.

Power to order
remedy of
default

5. (1) Where by a regulation under this Ordinance a certain matter or thing is directed to be done and is not done or a certain matter or thing is directed to be not done and is done by any person, the Commissioner or any person authorized by him may order the person who is in default under the regulation to remedy his default and if he fails to do so within thirty days of the day on which the Commissioner's order is served on him or mailed to him at his last known address by registered mail, the Commissioner or any person authorized by him may

Action to
remedy default

- (a) take such action as he sees fit to have the default remedied; and
- (b) recover from such person the expenses with costs of action in any court of competent jurisdiction.

(2) The action taken by the Commissioner or any person authorized by him to have any default remedied may include the destruction, alteration or removal of any buildings, structures or portions thereof. R.O. 1958, c. 7, s. 5.

PENALTY

Penalty for
violation of
regulations

6. (1) Every person who violates any regulation is guilty of an offence and is liable on summary conviction to a fine not exceeding two hundred dollars. R.O. 1958, c. 7, s. 6.

CHAPTER A-5

ASSIGNMENTS OF BOOK DEBTS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Assignments of Book Debts Ordinance*. R.O. 1958, c. 8, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance

Definitions

“assignee” means any person to whom an assignment of book debts is made ; “assignee”

“assignment” includes every legal and equitable assignment, whether absolute or by way of security, and every mortgage or other charge upon book debts ; “assignment”

“assignor” means any person making an assignment of book debts ; “assignor”

“book debts” means all such accounts and debts, whether existing or future, as in the ordinary course of business would be entered in books, whether actually entered or not, and includes any part or class thereof ; “book debts”

“creditors” means creditors of the assignor, whether execution creditors or not, who become creditors before the registration of an assignment, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of creditors, a trustee under the *Bankruptcy Act* and a liquidator of a company under the *Winding-up Act* or under an Ordinance of the Territory containing provisions for the winding-up of companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed ; “creditors”

“proper officer” means the officer in whose office assignments are required to be registered in any registration district ; “proper officer”

“registered” means filed in accordance with the provisions of this Ordinance ; “registered”

“registration district” means a district established under this Ordinance for the registration of assignments ; “registration district”

"subsequent purchaser" "subsequent purchaser" includes a person who in good faith, for valuable consideration, and without notice obtains by assignment an interest in book debts that have already been assigned;

"valuable consideration" "valuable consideration" includes

- (i) any consideration sufficient to support a simple contract; and
- (ii) an antecedent debt or liability. R.O. 1958, c. 8, s. 2.

APPLICATION

Application **3. (1) This Ordinance does not apply to**

- (a) any assignment of book debts, whether specified or by way of floating charge, made by a corporation and contained,
 - (i) in a trust deed or other like instrument to secure bonds, debentures, or debenture stock of the corporation,
 - (ii) in any bonds, debentures or debenture stock of the corporation, as well as in the trust deed or other like instrument securing the same, or
 - (iii) in any bonds, debentures, or debenture stock or any series of bonds or debentures of the corporation not secured by any trust deed or other like instrument;
- (b) any assignment of book debts due at the date of the assignment from specified debtors;
- (c) any assignment of debts growing due under specified contracts;
- (d) any assignment of book debts included in a transfer of a business made bona fide and for value; or
- (e) any assignment of book debts, included in any authorized assignment under the *Bankruptcy Act*. R.O. 1958, c. 8, s. 3.

FORM AND REGISTRATION

Registration **4. (1) Except as provided in this Ordinance, every assignment of book debts made by any person engaged in a trade or business shall be absolutely void as against the creditors of the assignor and as against subsequent purchasers, unless the assignment is**

- (a) in writing;
- (b) accompanied by an affidavit of an attesting witness, or affidavits of attesting witnesses, of the execution there-

of by the assignor or by the assignors respectively, identifying the assignment and stating the date of execution by the assignor, or the respective dates of execution by the assignors, as the case may be, and a further affidavit of the assignee, or one of the several assignees, his or their agent, stating that the assignment was executed in good faith and for valuable consideration and not for the mere purpose of protecting the book debts therein mentioned against the creditors of the assignor or for the purpose of preventing such creditors from recovering any claims that they have against the assignor; and

(c) registered, as provided in this Ordinance, together with the affidavits, within thirty days of the execution of the assignment.

(2) When there are two or more assignors, the date of execution of the assignment shall be deemed to be the date of the execution by the assignor who last executes it.

(3) Every assignment that is required to be in writing and to be registered under this Ordinance shall, as against creditors and subsequent purchasers, take effect only from the time of the registration of the assignment. R.O. 1958, c. 8, s. 4.

5. (1) Registration of an assignment under this Ordinance shall be effected by filing the assignment, together with such affidavits as are by this Ordinance required, within thirty days from its execution, in the office of the proper officer of a registration district determined in accordance with the following rules:

To effect registration

- (a) where the assignor is a corporation incorporated under the laws of the Territory, in the registration district in which the head office or registered office is situate;
- (b) where the assignor is an extra-territorial corporation having a head office within the Territory, in the registration district in which the head office or registered office is situate;
- (c) where the assignor is an extra-territorial corporation not having a head office or registered office within the Territory, in the registration district of Whitehorse;
- (d) where the assignor is not a corporation, in the registration district in which the assignor carries on business at the time of the execution of the assignment; or
- (e) where the assignor is not a corporation, and at the time of the execution of the assignment carries on business in different registration districts, in any such registration district, and by filing a duplicate original of the

assignment and affidavits, or a copy thereof certified by the proper officer of that registration district, in each of the other registration districts.

(2) The proper officer shall cause every assignment filed in his office to be numbered, to be endorsed with a memorandum of the day, hour and minute of filing, and to be indexed by entering in alphabetical order in a register kept by him the names of the parties to the assignment, with their descriptions, and the dates of execution and registration of the assignment.

(3) Where the time for registration of any assignment or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration shall, so far as regards the time of registration, be valid if made on the next following day on which the office is open. R.O. 1958, c. 8, s. 5.

DISCHARGE

Discharge of
assignment

6. (1) An assignment registered under this Ordinance may be discharged in whole or in part by the registration in the office in which the same is registered of a certificate of discharge, signed by the assignee, his executors, administrators, or assigns, and accompanied by an affidavit of an attesting witness of the due execution thereof.

(2) The proper officer in whose office a certificate of discharge, accompanied by the affidavit of execution is registered, shall note the fact of the discharge against each entry in the books of his office respecting the registration of the assignment and shall make a like notation upon the assignment or copy registered in his office.

(3) When there are two or more assignors residing in different registration districts affected by the discharge, the registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of the registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer in each of the other registration districts and each proper officer shall make the like notations of the discharge in the records of his office as are provided by subsection (2) of this section.

(4) The proper officer in whose office the certificate of discharge is registered shall on request furnish a certificate of

the entry of the discharge in the records of his office. R.O. 1958, c. 8, s. 6.

INSPECTION OF RECORDS

7. (1) Upon payment of the prescribed fees every person shall have access to and be entitled to inspect the books of any proper officer containing records or entries of assignments or documents registered or filed under the provisions of this Ordinance; and no person shall be required, as a condition of his right thereto, to disclose the name of the person in respect of whom the access or inspection is sought; and every proper officer shall, upon request accompanied by payment of the prescribed fees, produce for inspection any assignment or document so registered or filed in his office. R.O. 1958, c. 8, s. 7.

Inspection of records

REGISTRATION DISTRICTS AND OFFICES

8. (1) For the purpose of registration of assignments or other documents each registration district in the Territory for the purposes of the registration of mortgages and other transfers of personal property shall be a registration district and the registration clerk whose office is situate within a registration district shall be the proper officer for the registration of assignments or documents in that registration district. R.O. 1958, c. 8, s. 8.

Registration districts and officers

AFFIDAVITS

9. (1) Affidavits required by this Ordinance may be taken and made before the proper officer of any registration district or before any person, whether within or without the Territory, authorized to take affidavits in or concerning any cause, matter, or thing pending in any court in the Territory.

Taking of affidavits

(2) No registered assignment or other document shall be held to be defective or void solely on the ground that any affidavit required by this Ordinance was taken and made before a solicitor for any of the parties to the assignment or other document, or before a partner of the solicitor, or before a clerk in the office of the solicitor. R.O. 1958, c. 8, s. 9.

10. (1) Any affidavit required by this Ordinance to be made by an assignee may, in the event of his death, be made by his executor or administrator, or by any of his next-of-kin or by the duly authorized agent of the executor or administrator. R.O. 1958, c. 8, s. 10.

Affidavit in case of death of assignee

Affidavit on behalf of corporation

11. (1) Where the assignee is a corporation, every affidavit required or permitted by this Ordinance to be made or given by the corporation as assignee, may be made or given by any officer, employee or agent of the corporation. R.O. 1958, c. 8, s. 11.

Affidavit of agent or officer

12. (1) Any affidavit made for the purposes of this Ordinance by the agent of an assignee, or of an executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the circumstances connected with the assignment, and that he has a personal knowledge of the facts deposed to. R.O. 1958, c. 8, s. 12.

No affidavit of execution by corporation

13. (1) Where an assignment or certificate of discharge or other document has been executed by a corporation under the provisions of this Ordinance no affidavit of an attesting witness shall be required. R.O. 1958, c. 8, s. 13.

Proof of execution otherwise than by affidavit

14. (1) Where, before the making of any affidavit of execution required by this Ordinance, the attesting witness to an assignment, certificate of discharge, or other document dies or leaves the Territory, or becomes incapable of making or refuses to make such affidavit, a judge may make an order permitting the registration of the assignment, certificate of discharge or other documents, upon such proof of its due execution and attestation as the judge by the order may require and allow; the order, or a copy thereof, shall be annexed to the assignment, certificate of discharge or other document, as the case may be, and filed therewith; and the registration of the assignment, certificate of discharge or other document, under and in compliance with the terms of the order, has the like effect as the registration thereof with the affidavit of execution otherwise required by this Ordinance. R.O. 1958, c. 8, s. 14.

RECTIFICATION OF OMISSIONS AND MIS-STATEMENTS

Rectification of omissions and mis-statements

15. (1) Subject to the rights of other persons accrued by reason of any omission or mis-statement referred to in this section, a judge on being satisfied that the omission to register an assignment within the time prescribed by this Ordinance, or any omission or mis-statement in any document filed under this Ordinance, was accidental or due to inadvertence or impossibility, or other sufficient cause, may, in his discretion, extend the time for registration or order the omission or mis-statement to be rectified, on such terms and conditions, if any, as to security, notice by advertisement or

otherwise, or as to any other matter or thing as the judge thinks fit to direct; the order, or a copy thereof, made under this section shall be annexed to the assignment or copy thereof on file or tendered for registration, and appropriate entries shall be made in the register. R.O. 1958, c. 8, s. 15.

DEFECTS AND IRREGULARITIES

16. (1) No defect or irregularity in the execution or attestation of an assignment or other document; no defect, irregularity, or omission in any affidavit accompanying an assignment or filed in connection with its registration; and no error of a clerical nature or in an immaterial or non-essential part of an assignment shall invalidate or destroy the effect of the assignment or the registration thereof, unless in the opinion of the judge before whom a question relating thereto is tried, the defect, irregularity, omission, or error has actually misled some person whose interests are affected by the assignment. R.O. 1958, c. 8, s. 16.

Defects and irregularities

EVIDENCE OF RECORDS

17. (1) Copies of an assignment, certificate of discharge or other document registered or filed under this Ordinance, certified by the registration clerk, shall be receivable in evidence and shall be prima facie proof for all purposes as if the original assignment or document were produced, and also prima facie proof of the execution of the original assignment or document according to the purport of the copy, and the clerk's certificate shall also be prima facie proof of the date and hour of registration and filing. R.O. 1958, c. 8, s. 17.

Evidence of records

FEEES

18. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. R.O. 1958, c. 8, s. 18; 1971 (1st c. 20, s. 1.

Fees

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER B-1

BILLS OF SALE ORDINANCE

1. This Ordinance may be cited as the *Bills of Sale Ordinance*. R.O. 1958, c. 9, s. 1. Short title

2. (1) In this Ordinance Definitions

“bill of sale” means a document in writing in conformity with this Ordinance evidencing a sale or a mortgage, but does not include a bill of lading, a warehouse receipt, a warrant or order for the delivery of goods, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize the possessor of the document to transfer, either by endorsement or delivery, or receive goods thereby represented; “bill of sale”

“change of possession” means such change of possession as is open and reasonably sufficient to afford public notice thereof; “change of possession”

“chattels” means goods and chattels capable of complete transfer by delivery and includes when separately assigned or charged, fixtures and growing crops; but does not include chattel interests in real property or fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed; or growing crops, when assigned together with any interest in the land on which they grow; or a ship or vessel registered under the provisions of the *Canada Shipping Act* or *The Merchant Shipping Act, 1894*, and amending Acts, or any share in such ship or vessel; or shares or interests in the stock, funds, or securities of a government, or in the capital of a corporation, or book debts or other choses in action; “chattels”

“creditors” means creditors of the grantor, whether execution creditors or not, who become creditors before the registration of a bill of sale, or before the registration of a renewal statement, as the case may be, and, for the purpose of enforcing the rights of such creditors but not otherwise, includes a creditor suing on behalf of himself and other creditors, an assignee for the general benefit of creditors, a trustee under the *Bankruptcy Act*, and a liquidator of a company under the *Winding-up Act* or under any statute or Ordinance containing provisions for the winding-up of “creditors”

- companies, without regard to the time when the creditor so suing becomes a creditor, or when the assignee, trustee or liquidator is appointed;
- "grantee" "grantee" includes the bargainee, assignee, transferee, mortgagee, or other person to whom a bill of sale is made;
- "grantor" "grantor" includes the bargainer, assignor, transferor, mortgagor, or other person by whom a bill of sale is made;
- "mortgage" "mortgage" includes an assignment, transfer, conveyance, declaration of trust without transfer, or other assurance of chattels, intended to operate as a mortgage or pledge of chattels, or a power or authority or licence to take possession of chattels as security, or an agreement, whether intended or not to be followed by the execution of any other instrument, by which a right in equity to a charge or security on any chattels is conferred but does not include:
- (a) a mortgage or charge, whether specific or floating, of chattels created by a corporation, and contained,
 - (i) in a trust deed or other like instrument to secure bonds, debentures, or debenture stock of the corporation,
 - (ii) in any bonds, debentures, or debenture stock of the corporation, as well as in the trust deed or other like instrument securing the same, or
 - (iii) in any bonds, debentures, or debenture stock or any series of bonds or debentures of the corporation not secured by any trust deed or other like instrument;
 - (b) security taken by a bank under section 88 of the *Bank Act*; or
 - (c) a power of distress contained in a mortgage of real property;
- "proper officer" "proper officer" means the clerk of the registration district in which the property described in the bill of sale is situated, at the time of the execution of the instrument;
- "registered" "registered" means filed in accordance with the provisions of this Ordinance;
- "registration district" "registration district" means a district for the registration of bills of sale established under this Ordinance;
- "sale" "sale" includes a sale, assignment, transfer, conveyance, declaration of trust without transfer or other assurance not intended to operate as a mortgage, of chattels, or an agreement, whether intended or not to be followed by an execution of any other instrument, by which a right in equity to any chattels is conferred, but does not include,

- (a) an assignment for the general benefit of the creditors of the person making the assignment ;
- (b) a transfer or sale of goods in the ordinary course of any trade or calling ; or
- (c) a conditional sale within the meaning of the *Conditional Sales Ordinance* or an assignment of a conditional sale ; and

“subsequent purchasers or mortgagees” means persons to whom chattels are conveyed or mortgaged,

“subsequent purchasers or mortgagees”

- (a) after the making of the sale or mortgage mentioned in section 7, or
- (b) after the making of the mortgage mentioned in sections 15, 16 and 17,

as the case may be. R.O. 1958, c. 9, s. 2.

3. (1) The Commissioner may establish registration districts for the purpose of this Ordinance and he may alter the boundaries of any registration district. R.O. 1958, c. 9, s. 3.

Registration districts

4. (1) The Commissioner may appoint and designate the place of office of a registration clerk for each registration district. R.O. 1958, c. 9, s. 4.

Offices

5. (1) The registration clerks shall keep their respective offices open between the hours of ten o'clock in the forenoon and twelve o'clock noon and between the hours of two o'clock and four o'clock in the afternoon on all days except Saturdays, Sundays and holidays.

Office hours

(2) Documents may be registered pursuant to this Ordinance only during the hours set out in subsection (1). R.O. 1958, c. 9, s. 5; 1964 (1st) c. 5, s. 1.

When documents may be registered

6. (1) No registration clerk shall draw or prepare any document or conveyance that may be filed or registered in his office under the provisions of this or any other Ordinance. R.O. 1958, c. 9, s. 6.

Registration clerk not to draw documents

7. (1) A sale or mortgage that is not accompanied by an immediate delivery and an actual and continued change of possession of the chattels sold or mortgaged is void as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice, whose conveyances or mortgages have been duly registered or are valid without registration, unless the sale or mortgage is evidenced by a bill

Sale or mortgage to be evidenced by a registered bill of sale

of sale duly registered; and the sale or mortgage, and the bill of sale, if any, evidencing the sale or mortgage, takes effect as against creditors and such subsequent purchasers or mortgagees only from the time of the registration of the bill of sale. R.O. 1958, c. 9, s. 7.

Schedule to be part of bill of sale

8. (1) Every schedule annexed to a bill of sale or referred to therein shall be deemed to be part of the bill of sale, and shall be registered therewith.

Defeasance or trust to be part of bill of sale

(2) When a bill of sale is subject to any defeasance or trust, the defeasance or trust shall be deemed to be a part of the bill of sale, and the defeasance or a declaration of the trust shall be registered therewith. R.O. 1958, c. 9, s. 8.

Description of chattels

9. (1) A bill of sale shall contain a sufficient and full description of the chattels comprised therein so that the same may be readily and easily known and distinguished. R.O.: 1958, c. 9, s. 9.

Time and place of registration

10. (1) Registration of a bill of sale is effected by filing the bill of sale, together with such affidavits as are required by this Ordinance, within thirty days from the day of its execution, in the office of the proper officer of the registration district in which the chattels comprised in the bill of sale are situate at the date of the execution of the bill of sale; where there are two or more grantors, the day of execution of the bill of sale shall be deemed to be the day of the execution by the grantor who last executed it.

Where chattels are situate in more than one registration district

(2) Where the chattels comprised in the bill of sale are situate partly in one registration district and partly in another registration district, registration is effected by filing the bill of sale and affidavits in one of the registration districts, and by filing a duplicate original of the bill of sale and affidavits, or a copy thereof certified by the proper officer of that registration district, in the other registration districts.

Minutes of registration

(3) The proper officer shall cause every bill of sale or copy thereof filed in his office to be numbered and he shall endorse thereon the day, hour and minute of its filing and shall enter in alphabetical order in a register kept by him the names of the parties to the bill of sale with their descriptions, the dates of execution and registration of the bill of sale and the amount, if any, of the consideration for which the bill of sale was made. R.O. 1958, c. 9, s. 10.

Affidavit of execution

11. (1) Except as provided by section 29 every bill of sale presented for registration shall be accompanied by an affida-

vit of an attesting witness, of the execution thereof by the grantor, identifying the bill of sale and stating the day of execution by the grantor. R.O. 1958, c. 9, s. 11.

12. (1) Where a bill of sale is given to secure to the grantee,

Bill of sale to secure advances

- (a) repayment of any advances to be made by him under an agreement therefor,
- (b) against loss or damage by reason of the endorsement of a bill of exchange or promissory note,
- (c) against loss or damage by reason of any other liability incurred by the grantee for the grantor, or
- (d) against loss or damage by reason of the liability to be incurred under an agreement by the grantee for the grantor.

the bill of sale shall set forth clearly by recital or otherwise, and shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that it truly sets forth

- (e) the terms or substance of the agreement entered into between the parties in respect of the advances,
- (f) a copy of the bill of exchange or promissory note endorsed and of the endorsements,
- (g) the nature and extent of such other liability incurred by the grantee for the grantor, or
- (h) the terms or substance of the agreement in respect of the liability to be incurred by the grantee for the grantor,

and in all cases the affidavit shall state that the bill of sale truly sets forth the extent or amount of liability incurred or to be incurred and to be secured by the bill of sale.

(2) The affidavit shall also state that the bill of sale was executed in good faith and for the purpose of securing the grantee

Further contents of affidavit

- (a) repayment of the advances,
- (b) against loss or damage by reason of the endorsement,
- (c) against loss or damage by reason of the liability incurred by the grantee for the grantor, or
- (d) against loss or damage by reason of the liability to be incurred by the grantee for the grantor, under the agreement therefor,

as the case may be, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, or for the purpose of preventing the creditors

from recovering any claims that they have against the grantor. R.O. 1958, c. 9, s. 12.

Bill of sale to secure a debt or a present loan

13. (1) Where a bill of sale, other than a bill of sale within the scope of section 12 is given to secure the payment of an ascertained amount due or accruing due from the grantor to the grantee, or of a present advance being made by the grantee to the grantor, it shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the amount set forth in the bill of sale as being the consideration therefor is justly due or accruing due from the grantor to the grantee, or is a present advance being made by the grantee to the grantor, as the case may be, and that the bill of sale was executed in good faith and for the purpose of securing to the grantee the payment of such amount, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor, or for the purpose of preventing the creditors from recovering any claims that they have against the grantor. R.O. 1958, c. 9, s. 13.

Affidavit of bona fides accompanying other bills of sale

14. (1) Where a bill of sale is not a bill of sale within the scope of section 12 or section 13, it shall, when presented for registration, be accompanied by an affidavit of the grantee, or one of several grantees, or his or their agent, stating that the bill of sale was executed in good faith and for good consideration, as set forth in the bill of sale, and not for the mere purpose of protecting the chattels therein mentioned against the creditors of the grantor or for the purpose of preventing the creditors from recovering any claims that they have against the grantor.

Further particulars in affidavit

(2) The affidavit required by subsection (1) shall further state that the goods or chattels covered by such bill of sale are not sold in bulk within the meaning of the *Bulk Sales Ordinance*; or in case of a sale in bulk such bill of sale shall be further accompanied by an affidavit of the grantor setting forth a complete list of his creditors or by the written waiver referred to in section 6 of the said Ordinance. R.O. 1958, c. 9, s. 14.

Renewal of bills of sale evidencing mortgages

15. (1) Where a registered bill of sale evidences a mortgage of chattels, it shall, after the expiration of the period of three years from its registration cease to be valid as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice, whose conveyances or mortgages have been duly registered, or are valid without registration, unless, before the expiration of that period, a

renewal statement accompanied by the affidavit mentioned in subsection (2) is registered in accordance with subsections (2) and (3).

(2) A renewal statement made pursuant to this section shall set out the interest of the mortgagee, his executors, administrators or assigns, in the chattels comprised in the bill of sale, and the amount still owing for principal and interest or the extent or amount of the liability still secured thereby, and shall be accompanied by an affidavit of the mortgagee, his executors, administrators or assigns, or his or their agent, or of some one of them, stating that the statement is true and that the bill of sale has not been kept in force for any fraudulent purpose.

Contents of renewal statement and affidavit

(3) A renewal statement made pursuant to this section may be in Form 1 in Schedule I, with such variations as the circumstances may require.

Form of renewal statement

(4) A renewal statement made pursuant to this section accompanied by the affidavit mentioned in subsection (2) shall be registered,

Registration of statement and affidavit

(a) in the office of the proper officer of the registration district in which the bill of sale or copy thereof was registered, as regards the chattels still situate in that registration district, or

(b) in case of the permanent removal of any of the chattels comprised in the bill of sale and the registration of a certified copy of the bill of sale pursuant to section 16, in the office of the proper officer of the registration district in which the certified copy of the bill of sale was so registered, as regards chattels so removed.

(5) A further renewal statement accompanied by an affidavit shall likewise be registered in accordance with subsections (2), (3) and (4) of this section within the period of three years from the registration of the first renewal statement, and thereafter within each succeeding period of three years from the registration of the last preceding renewal statement; and failing such registration the bill of sale shall, after the expiration of any such period, become void to the extent provided in subsection (1).

Further renewal statement

(6) Where any mistake is made in a renewal statement defined by this section the mortgagee, his executors, administrators or assigns, may, after the discovery of the mistake, register an amended statement and affidavit referring to the former statement and clearly pointing out the mistake and correcting it.

Registration amended renewal statement

Effect of interest
intervening
before registra-
tion of amended
renewal state-
ment

(7) Where before the registration of the amended statement and affidavit referred to in subsection (6), a person has in good faith made an advance of money or given any valuable consideration to the grantor, or has incurred any costs in proceedings taken, relying on the accuracy of the renewal statement as first registered, the bill of sale as to the amount so advanced or the valuable consideration given or costs incurred by such person, shall, as against that creditor, purchaser or mortgagee, stand good only for the amount stated in the renewal statement as first registered, or to the extent or amount of the liability secured in the renewal statement as first registered. R.O. 1958, c. 9, s. 15.

Renewal of
chattels to
another registra-
tion district

16. (1) Where a registered bill of sale evidences a mortgage of chattels, and before the payment and discharge of the bill of sale, chattels comprised therein are permanently removed into a registration district other than the one in which they were situate at the time of its execution, the bill of sale shall, within thirty days after the grantee has received notice of the place to which the chattels have been removed, be registered in the office of the proper officer of the registration district into which the chattels are removed, by filing therein a copy of the bill of sale and of all affidavits and documents accompanying the bill of sale or filed on the registration or renewal thereof, certified as a true copy by the proper officer in whose office the bill of sale was registered or was last renewed; and failing such registration the bill of sale, in respect of the chattels so renewed ceases to be valid as against creditors and as against subsequent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice, whose conveyances or mortgages have been registered or are valid without registration. R.O. 1958, c. 9, s. 16.

Renewal of
chattels into the
Territory

17. (1) Where chattels subject to a mortgage that was executed at a time when they were situate outside the Territory are permanently removed into the Territory, the mortgage shall within thirty days after the grantee has received notice of the place to which the chattels have been removed, be registered as a bill of sale, in the office of the proper officer of the registration district into which the chattels are removed, by filing therein a copy of the mortgage and of all affidavits and documents accompanying or relating to the mortgage proved to be a true copy by the affidavit of some person who has compared the same with the original; and failing such registration the grantee shall not be permitted to set up any right of property or right of possession in or to the chattels so removed as against creditors and as against subse-

quent purchasers or mortgagees claiming from or under the grantor in good faith, for valuable consideration and without notice. R.O. 1958, c. 9, s. 17.

18. (1) Except for temporary purposes for a period of not more than twenty days, the grantor shall not remove the chattels comprised in a bill of sale into another registration district unless he has, at least ten days before such removal, given the grantee personally or by registered mail, written notice of the place to which the chattels are to be removed and the approximate time of the intended removal.

Buyer to give notice of removal, sale, etc.

(2) The grantor shall not, prior to the complete performance of the contract, sell, mortgage, charge or otherwise dispose of his interest in chattels comprised in a bill of sale, unless he, or the person to whom he is about to sell, mortgage, charge or otherwise dispose of same, has notified the grantee in writing, personally or by registered mail, of the name and address of such person, not less than ten days before such sale, mortgage, charge or other disposal.

Idem.

(3) Where the grantor removed chattels comprised in a bill of sale or disposes of his interest in them contrary to this section, the grantee may retake possession of the chattels and deal with them as in case of default in payment of all or part of the purchase price. R. O. 1958, c. 9, s. 18.

Grantee may retake possession if notice not given

19. (1) A sale or mortgage or a bill of sale that is void or has ceased to be valid under this ordinance, as against creditors, purchasers or mortgagees, is not, by reason fo the fact that the grantee has subsequently taken possession of the chattels sold or mortgaged, rendered valid as against persons who became creditors, purchasers or mortgagees before the grantee took possession. R. O. 1958, c. 9, s. 19.

Subsequent taking of possession

20. (1) An assignment of a bill of sale need not be registered, but it may be registered by filing the assignment, accompanied by an affidavit of an attesting witness of the execution thereof, in any office in which the bill of sale is registered.

Registration of assignment

(2) The proper officer in whose office an assignment is registered shall note the fact of the assignment against each entry in the books of his office respecting the registration of the bill of sale, and shall make a like notation upon the bill of sale or copy filed in his office.

Notation of registration of assignment

(3) Where the chattels comprised in a bill of sale that has been assigned are situate partly in one registration district

Registration in case of chattels in two registration districts

and partly in another registration district, registration of the assignment may be effected by filing the assignment and affidavit pursuant to subsection (1), in the office of the proper officer in one of such registration districts, and by filing a duplicate original of the assignment and affidavit, or a copy of the assignment and affidavit certified by the proper officer of that registration district in the other registration district and the proper officer in each registration district shall make the like notation of the assignment in the records of his office as is provided by subsection (2). R.O. 1958, c. 9, s. 20.

Discharge of bill of sale evidencing mortgage

21. (1) Where a registered bill of sale evidences a mortgage of chattels, it may be discharged in whole or in part by the registration, in the office in which the same is registered, of a certificate of discharge, in Form 2, in Schedule I signed by the mortgagee, his executors, administrators or assigns, and accompanied by an affidavit of an attesting witness of the execution; but no certificate of discharge by an assignee shall be registered unless the assignment has been registered in that office.

Notation of registration of discharge

(2) The proper officer in whose office a certificate of discharge accompanied by the affidavit of execution is registered shall note the fact of the discharge against each entry in the books of his office respecting the registration of the bill of sale, and shall make a like notation upon the bill of sale, or copy filed in his office.

Registration in case of chattels in two registration districts

(3) Where the chattels affected by the discharge are situated partly in one registration district and partly in another registration district, registration may be effected either by filing a duplicate or other original of the certificate of discharge and affidavit of execution in the office of the proper officer in each of the registration districts, or by filing the certificate of discharge and affidavit of execution in one of such registration districts and by filing a certificate of the entry of the discharge therein, signed by the proper officer of that registration district in the other registration district and the proper officer in each registration district shall make the like notation of the discharge in the records of his office as is provided by subsection (2).

Certificate of entry of discharge

(4) The proper officer in whose office the certificate of discharge is registered shall on the request of any person furnish him with a certificate of the entry of the discharge in the records of his office. R.O. 1958, c. 9, s. 21.

22. (1) Where any registration district is divided or the boundaries thereof are altered or any new registration district is established pursuant to section 3,

Procedure on
change of
boundaries of
registratin
districts

- (a) every bill of sale evidencing a mortgage of chattels that was duly registered in a district affected by any such division, alteration or establishment, at the time when the division, alteration or establishment became effective, shall until it becomes necessary to register a renewal statement in respect thereof continue to be as valid and effectual as if the division, alteration or establishment had not been made;
- (b) on and after the day upon which the division, alteration or establishment becomes effective, the renewal statement required to be registered in respect of any such bill of sale shall be filed with the registration clerk of each district in which the chattels comprised in the bill of sale were situate at the time of the execution thereof, except only in the case of the permanent removal of such goods and chattels into a registration district other than the one in which they were situate at the time of its execution, in which case the renewal statement shall be registered in the office of the proper officer of the registration district in which the bill of sale is required to be registered pursuant to section 16; and
- (c) in case the bill of sale is registered with the clerk of a registration district other than the clerk of the registration district with whom the renewal statement relating thereto is required to be filed, there shall be filed with every such statement a certified copy of the bill of sale to which it relates.

(2) No bill of sale duly registered at the date of the division, alteration or establishment of any district in any district affected by any such division, alteration or establishment, loses its priority by reason of the non-registration thereof in the office of the registration clerk in any other district until the expiration of the period fixed by section 15 for the renewal thereof. R.O. 1958, c. 9, s. 22.

23. (1) Where the time for registration of a bill of sale or other document expires on a Sunday or other day on which the office in which the registration is to be made is closed, the registration is, so far as regards the time of registration, valid if made on the next following day on which the office is open. R.O. 1958, C. 9, s. 23.

Expiry of time
on Sunday

Proof of execution otherwise than by affidavit

24. (1) Where before the making of any affidavit of execution required by this Ordinance, the attesting witness to a bill of sale or other document dies or leaves the Territory, or becomes incapable of making or refuses to make the affidavit, a judge may make an order permitting the registration of the bill of sale or other document, upon such proof of its due execution and attestation as the judge by the order may require and allow; the order or a copy thereof shall be annexed to the bill of sale or other document, as the case may be, and filed therewith; and the registration of the bill of sale or other document, under and in compliance with the terms of the order, has the like effect as a registration with the affidavit of execution otherwise required by this Ordinance. R.O. 1958, c. 9, s. 24.

Taking of affidavits

25. (1) An affidavit required by this Ordinance may be taken and made before the proper officer of any registration district or before any person, whether within or without the Territory, authorized to take affidavits in or concerning any cause, matter or thing pending in any court in the Territory.

(2) No registered bill of sale or other document is defective or void solely on the ground that any affidavit required by this Ordinance was taken and made before a solicitor for any of the parties to the bill of sale or other document or before a partner of the solicitor, or before a clerk in the office of the solicitor. R.O. 1958 c. 9, s. 25.

Affidavits in case of death of grantee

26. (1) An affidavit required by this Ordinance to be made by a grantee or assignee of the grantee may in the event of his death be made by his executor or administrator, or by any of his next of kin, or by the duly authorized agent of the executor or administrator. R.O. 1958, c. 9, s. 26.

Affidavit, etc., on behalf of corporation

27. (1) Where the grantee or the assignee of a bill of sale is a corporation, every affidavit or statement required or permitted by this Ordinance to be made or given by the corporation as grantee or assignee may be made or given by any officer, employee or agent of the corporation. R.O. 1958, c. 9, s. 27.

Affidavit of agent or officer

28. (1) An affidavit made for the purpose of this Ordinance by the agent of a grantee, assignee, executor or administrator, or by an officer, employee or agent of a corporation, shall state that the deponent is aware of the circumstances connected with the bill of sale or with the renewal of the bill of sale, as the case may be, and that he has

personal knowledge of the facts deposed to. R.O. 1958, c. 9, s. 28.

29. (1) Where a bill of sale, certificate of discharge, assignment or other document has been executed by a corporation under the provisions of this Ordinance, no affidavit of an attesting witness is required. R.O. 1958, c. 9, s. 29.

No affidavit of execution by corporation

30. (1) Subject to the rights of other persons accrued by reason of any omission or mis-statement referred to in this section, a judge on being satisfied that the omission to register a bill of sale or renewal statement or mis-statement in any document filed under this Ordinance, was accidental or due to inadvertence or impossibility, or other sufficient cause, may, in his discretion, extend the time for registration or order the omission or mis-statement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise or as to any other matter or things as the judge thinks fit to direct.

Rectification of omission and mis-statements

(2) An order made pursuant to subsection (1) or a copy thereof shall be annexed to the bill of sale or copy on file or tendered for registration, and appropriate entries shall be made in the register. R.O. 1958, c. 9, s. 30.

Order to be annexed to bill of sale

31. (1) No defect or irregularity in the execution or attestation of a bill of sale or renewal statement, no defect, irregularity or omission in any affidavit accompanying a bill of sale or renewal statement or filed in connection with its registration, and no error of a clerical nature or in an immaterial or non-essential part of a bill of sale or renewal statement shall be held to invalidate or destroy the effect of the bill of sale or renewal statement or the registration thereof, unless in the opinion of the court such defect, irregularity, omission or error has actually misled some person whose interests are affected by the bill of sale. R.O. 1958, c. 9, s. 31.

Defects and irregularities

32. (1) This Ordinance applies to bills of sale of chattels, notwithstanding that the chattels may not be the property of or may not be in the possession, custody or control of the grantor, or any one on his behalf at the time of the making of the bill of sale, and notwithstanding that the chattels may be intended to be delivered at some future time, or that they may not at the time for the making of the bill of sale be actually procured or provided, or fit or ready for delivery, and notwithstanding that some act may be required for the

Bill of sale of subsequently acquired chattels

making or completion of the chattels, or rendering them fit for delivery. R.O. 1958, c. 9, s. 32.

Where Her Majesty is grantee

33. (1) Where in a bill of sale Her Majesty is the grantee, this Ordinance applies, except the provisions thereof with respect to affidavits of *bona fides* and renewal statements. R.O. 1958, c. 9, s. 33.

Evidence of records

34. (1) A certificate furnished by the proper officer touching any matter dealt with by this Ordinance shall be received for all purposes as *prima facie* evidence of the facts set out in the certificate, and a copy of a document filed or registered under this Ordinance certified by the proper officer shall be received as *prima facie* evidence for all purposes as if the original document were produced.

(2) No proof is required of the signature or official position of any proper officer in respect of any certificate produced as evidence pursuant to this section. R.O. 1958, c. 9, s. 34.

Inspection of records, etc.

35. (1) Any person may, during the office hours prescribed by section 5 and upon payment of the prescribed fees, inspect any document registered or filed under this Ordinance and the books containing records or entries of such documents. R.O. 1958, c. 9, s. 35; 1964 (1st) c. 5, s. 2.

Fees

36. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. R.O. 1958, c. 9, s. 36; 1971 (1st) c. 20, s. 2.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

SCHEDULE I

FORM 1

(Section 11)

RENEWAL STATEMENT OF CHATTEL MORTGAGE

Statement setting out the interest of
 in the chattels mentioned in the bill of sale dated
 the day of, 19....., made between
 of
 of the one part, and of
 of the other part; and registered in the office of
 of the registration district of, on the
 day of 19....., and of the amount still
 owing for principal and interest, or the extent or amount of the
 liability still by the said bill of sale.

The said is still the mortgagee of the
 said chattels, and has not assigned the said bill of sale (or the
 said is the assignee of the said bill of sale
 by virtue of an assignment thereof, dated the
 day of, 19.....,) (or as the case
 may be).

The amount still owing for principal and interest on the said
 bill of sale is in the sum of \$ (or the extent or amount
 of the liability still secured by the said bill of sale is as follows:
 here give particulars).

.....
Signature of Mortgagee or Assignee

R.O. 1958, c. 9, Sched.

Registration District of.....

To Wit:.....

I,....., of the.....
of....., in the.....of
....., the mortgagee named in the bill of
sale mentioned in the foregoing (or annexed) statement (or
assignee of the mortgagee named in the mortgage mentioned in
the foregoing (or annexed) statement) (as the case may be),
make oath and say:

1. That the foregoing (or annexed) statement is true;

2. That the bill of sale mentioned in the said statement has
not been kept in force for any fraudulent purpose.

Sworn before me at.....
in the Registration District of.....
this.....day of....., 19.....

.....
(A Commissioner, etc.)

R.O. 1958, c. 9, Sched.

FORM 2
(Section 20)

CERTIFICATE OF DISCHARGE

I,....., of.....,
do certify that.....has satisfied
all money due, or accruing due on a certain bill of sale made
by.....to....., which bill
of sale bears date the.....day of.....19.....,
and was registered (or in case the bill of sale has been renewed
was last renewed) in the office of the.....of the
registration district of....., on the.....day of
.....19....., as No.....(here
mention the date of registration of each assignment thereof, and
the names of the parties, or mention that such bill of sale has
not been assigned, as the fact may be); and that I am the person
entitled by law to receive the money, and that such bill of sale
is therefore discharged.

Witness my hand, this.....day of....., 19.....

.....
(Signature of Mortgagee or Assignee)

Witness:

R.O. 1958, c. 9, Sched.

CHAPTER B-2

BLASTING ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Blasting Ordinance*. Short title
R.O. 1958, c. 10, s. 1.

INTERPRETATION

2. (1) In this Ordinance Definitions

“blaster” means a person who is the holder of a permit ; “blaster”
“explosive”

“explosive” means gunpowder, blasting powder, nitroglycerine, gun-cotton, dynamite, blasting gelatine, gelignite, fulminates of mercury or of other metals, and every other substance made, manufactured or used with a view to producing a violent explosion, and includes detonators ;

“inspector” means a person appointed or authorized to act as such by the Commissioner under section 4 ; “inspector”

“permit” means a blaster’s permit issued under section 5 or a temporary permit issued under section 9. R.O. 1958, c. 10, s. 2. “permit”

APPLICATION

3. (1) This Ordinance applies to any operation in which explosives are used for blasting. R.O. 1958, c. 10, s. 3. Application

APPOINTMENT OF INSPECTORS

4. (1) The Commissioner may appoint or authorize to act as an inspector one or more duly qualified persons to carry out the provisions of this Ordinance. R.O. 1958, c. 10, s. 4. Appointment of inspectors

BLASTERS’ PERMITS

5. (1) Subject to section 7, an inspector may issue a blaster’s permit, in Form 1 of Schedule I, to any person authorizing such person to conduct blasting operations. Issuance of blaster’s permit

(2) A blaster’s permit issued under this section shall be subject to such restrictions and conditions as are endorsed thereon. R.O. 1958, c. 10, s. 5. Restrictions

Application for permit

6. (1) Every applicant for a blaster's permit shall make and transmit to an inspector an application, in Form 2 of Schedule I, accompanied by a written testimonial from an employer or blaster certifying that the applicant has had at least six months experience in connection with blasting operations, or as an assistant to a blaster, and that in the opinion of such employer or blaster the applicant's character, knowledge and experience qualify him to handle explosives. R.O. 1958, c. 10, s. 6.

Qualifications

7. (1) No person is qualified to be the holder of a blaster's permit unless

- (a) he has a satisfactory knowledge of the English language; and
- (b) he has achieved a satisfactory result in an examination given by an inspector pursuant to section 8. R.O. 1958, c. 10, s. 7.

EXAMINATIONS

Substance of examination

8. (1) An inspector shall examine every applicant for a blaster's permit as to the applicant's knowledge of the following:

- (a) drilling for blasting purposes;
- (b) commercial explosives;
- (c) blasting accessories;
- (d) the use of safety fuses;
- (e) electrical blasting;
- (f) transportation and storage of explosives and blasting accessories; and
- (g) the safe use of explosives for general purposes.

Type of examination

(2) An examination under this section may be written or oral or may be given in any other manner as the inspector requires for the purpose of satisfying himself as to the qualifications of the applicant. R.O. 1958, c. 10, s. 8.

TEMPORARY PERMITS

Temporary permit

9. (1) An inspector or any person authorized by him in that behalf may issue a temporary permit, in Form 3 of Schedule I, to any person to handle and use explosives.

Idem.

(2) No permit shall be issued under this section unless the inspector or person authorized by him in that behalf is satisfied that the applicant for the permit has an adequate knowledge of the handling and use of explosives.

(3) A permit issued under this section shall be valid for any period not exceeding ninety days as is specified therein and shall be subject to such restrictions and conditions as are endorsed thereon by the inspector or person authorized by him in that behalf. Duration, etc.

(4) Where a permit is issued under this section by any person authorized by an inspector in that behalf, such person shall forthwith notify the inspector of the issue of the permit. Notification
R.O. 1958, c. 10, s. 9.

PROHIBITIONS

10. (1) Subject to subsection (2), no person other than a blaster shall conduct a blasting operation. Blasting operations

(2) A blaster may be assisted by reliable persons who are not blasters, but the blaster shall assume full authority over such persons and shall be responsible for the conduct of their work. Assistant

(3) In this section "blasting operation" means any blasting operation requiring the use of explosives, and includes the preparing and firing of charges and the handling of misfires. "blasting operation" defined
R.O. 1958, c. 10, s. 10.

11. (1) No person in charge of any operation in respect of which it is necessary to use explosives shall allow a person other than a blaster to carry on blasting operations in connection therewith. Unauthorized persons
R.O. 1958, c. 10, s. 11.

12. (1) No person shall refuse to produce for inspection any permit of which he is the holder when requested to do so by an inspector or a member of the Royal Canadian Mounted Police. Production of permit
R.O. 1958, c. 10, s. 12.

13. (1) No person may make or assist in making any false representation for the purpose of procuring a permit for himself or any other person. False representation
R.O. 1958, c. 10, s. 13.

BLASTING ACCIDENTS

14. (1) Where a blasting accident occurs in which any personal injury is sustained or where there is any unusual occurrence in which explosives are involved, the permit of any person in charge of the blasting operation shall be suspended by his employer or an inspector, pending investigation of the accident or occurrence. Suspension of permit

Report to
inspector

(2) The person in charge of the blasting operation or his employer shall immediately forward a report of the accident or occurrence to an inspector and shall enclose with the report the permit, if any, of such person.

Inspector to
investigate

(3) The inspector shall forthwith investigate the accident or occurrence and submit the results of his investigation to the Commissioner. R.O. 1958, c. 10, s. 14.

PENALTIES

Suspension of
blaster

15. (1) Where in the opinion of the employer or his agent, a blaster is guilty of a violation of this Ordinance or of any rule made pursuant to this Ordinance, the employer or his agent shall immediately suspend the blaster from performing any duty in connection with the handling of explosives and shall forthwith report the suspension to an inspector for such action as the inspector deems advisable. R.O. 1958, c. 10, s. 15.

Revocation of
permit

16. (1) An inspector may suspend or revoke a permit for whatever reason he deems sufficient. R.O. 1958, c. 10, s. 16.

Penalty

17. (1) Every person who violates any provision of this Ordinance or any rule made thereunder is guilty of an offence and liable upon summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. R.O. 1958, c. 10, s. 17.

Civil action for
damages

18. (1) Nothing in this Ordinance shall be construed as limiting or interfering with the rights of any person to bring and maintain a civil action for damages occasioned by an explosion. R.O. 1958, c. 10, s. 18.

RULES

Rules

19. (1) The Commissioner may make rules

- (a) prescribing forms and notices for carrying out this Ordinance;
- (b) prescribing the nature of examinations for permits; and
- (c) generally for the purpose of ensuring the proper care, use and handling of explosives. R.O. 1958, c. 10, s. 19.

SCHEDULE I

FORM 1

(Section 5 (1))

YUKON TERRITORY BLASTER'S PERMIT

Permit Number.....

It is hereby certified that Mr.....

Address.....

is authorized to work as a blaster under the provisions of the
Blasting Ordinance.

Date of issue.....Inspector.....

Subject to the following conditions:.....

.....

NOTE: *The above permit should be printed on heavy linen paper.*

FORM 2

(Section 6)

APPLICATION FOR BLASTER'S PERMIT
YUKON TERRITORY

1. Name.....Age.....

2. Address.....

3. Occupation.....

4. Qualifications.....

5. Experience in handling and firing explosives (give name of
employer and period of employment)

- 6. Does your present employment require you to handle and fire explosives?.....
- 7. If so, kindly give details of this work:

- 8. Is firing of explosives done with safety fuse or electricity?

.....
Applicant's Signature

We herewith recommend the above named applicant as a person who, in our opinion, is qualified to handle explosives.

.....
Present Employer

.....
*Signature of Employer
or Blaster making recommendation*

FORM 3
(Section 9)

TEMPORARY BLASTER'S PERMIT

Permit Number.....

It is hereby certified that Mr.....

Address.....

is authorized to handle explosives under the provisions of the *Blasting Ordinance* for a period of time not exceeding.....

.....
(ninety days maximum)

Date of issue.....

*Inspector or person authorized
by Inspector*

Subject to the following conditions.....

R.O. 1958, c. 10, Sched.

CHAPTER B-3

BRANDS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Brands Ordinance*. Short title
1967 (2nd) c. 2, s. 1.

INTERPRETATION

2. (1) In this Ordinance Definitions

- “brand” means any character or combination of characters impressed or intended to be impressed upon the skin or hide of stock for the purpose of denoting the ownership thereof; “brand”
- “cattle” means any bull, cow, ox, heifer, steer or calf; “cattle”
- “Director” means the Director of Game appointed under the *Game Ordinance*; “Director”
- “horse” means any horse, mare, gelding, colt or filly and includes any ass or mule; “horse”
- “owner” means any person in whose name a brand is registered, and includes the agent of such person; “owner”
- “register” means the register of brands referred to in section 6; “register”
- “registered” means recorded in the register; “registered”
- “representative” means a member of the Royal Canadian Mounted Police, a Health Officer appointed under the *Public Health Ordinance* or a game guardian appointed under the *Game Ordinance*; “representative”
- “stallion” means an entire male horse over two years old; and “stallion”
- “stock” means cattle or horses. 1967 (2nd) c. 2, s. 2. “stock”

APPLICATION FOR REGISTRATION

3. (1) Any person may make a written application to the Director for registration of a brand. Application for registration

(2) Every person who is the owner of a stallion shall make a written application to the Director for registration of a brand.

Contents of application

- (3) An application referred to in this section shall
- (a) state the name and address of the applicant;
 - (b) state the part of the animal where the brand is to be impressed;
 - (c) be accompanied by a facsimile of the brand that the applicant wishes to use; and
 - (d) be signed by the applicant or his agent. 1967 (2nd) c. 2, s. 3.

Where application refused

4. (1) The Director may refuse to approve an application made under subsection 3(1) or 3(2).

(2) Where the Director refuses to approve an application made under subsection 3(2) he may, after consultation with the applicant, register an alternative brand and the provisions of this Ordinance shall apply thereto.

Where application will not be approved

(3) The Director shall not approve an application made under subsection 3(1) or 3(2) where the application requests the registration of a brand that, in the opinion of the Director, is identical with or closely resembles a Royal Cipher, a registered brand, the initials "R.C.M.P." or the brand used by the Royal Canadian Mounted Police. 1967(2nd) c. 2, s. 4.

Registration and brand certificate

5. (1) Subject to subsection (2), where the Director approves an application made under subsections 3(1) or 3(2), he shall

- (a) register the brand in the name of the applicant; and
- (b) issue a brand certificate to the applicant that
 - (i) shows a facsimile of the brand,
 - (ii) states the part of the animal where the brand is to be impressed,
 - (iii) states the name and address of the owner, and
 - (iv) shows the date of the registration.

Where application by corporation

(2) Where an application for registration of a brand is made by a corporation, the corporation shall designate an individual in whose name the brand shall be registered and to whom the brand certificate referred to in subsection (1) shall be issued. 1967 (2nd) c. 2, s. 5.

REGISTRATION OF BRANDS

6. (1) There shall be maintained at the office of the Director, or at such other place or places as the Commissioner may designate, a register of brands in which shall be recorded

Register of
brands

- (a) each registered brand ;
- (b) the name and address of each owner ; and
- (c) the name and address of each person in whose name a brand has been registered.

(2) There shall not be entered in the register any notice of any trust.

Notice of trust

(3) The register shall be open for inspection by the public at all reasonable times. 1967 (2nd) c. 2, s. 6.

Inspection of
registration

7. (1) A brand shall remain registered in the name of its owner until

- (a) the owner makes a written request to the Director for cancellation of the registration ;
- (b) the Director pursuant to section 11 registers a brand in the name of the person to whom it has been transferred ; or
- (c) the Director is satisfied that the owner does not have a *bona fide* intention of using the brand in respect of stock.

(2) Notwithstanding subsection (1), where an owner dies the Director may upon written application

Cancellation or
transfer on death
of owner

- (a) cancel the registration of the brand, if he is satisfied that the brand is no longer borne by any stock, or
- (b) transfer the brand

if notice of the intended cancellation or transfer has been published by the owner's executor or the transferee in a newspaper that is circulated in the Territory. 1967 (2nd), c. 2, s. 7.

8. (1) The Director may change the address of an owner as shown in the register and on his brand certificate on receipt of a written application from the owner requesting such change. 1967 (2nd) c. 2, s. 8.

Change of
address of owner

9. (1) A brand registered under this Ordinance is the personal property of its owner who has the exclusive right to its use. 1967 (2nd) c. 2, s. 9.

Property in
registered brand

Brand as prima facie proof of ownership of stock

10. (1) Where an impression of a registered brand is placed upon any stock in accordance with subsection (2), that fact shall be received in all courts and legal proceedings as *prima facie* proof that the owner of the brand is the owner of that stock.

Size of brand

- (2) An impression of a brand in stock shall be made by an iron
 - (a) that has a face that is in no place less than one-quarter of an inch in width ; and
 - (b) that is capable of making an impression of the brand not less than three inches in either height or width, as the case may be. 1967 (2nd) c. 2, s. 10.

TRANSFER OF BRANDS

Transfer of brand

- 11. (1) Where an owner wishes to transfer a registered brand, he shall deliver to the transferee
 - (a) the brand certificate issued to him under paragraph 5(1)(b); and
 - (b) a declaration in the prescribed form.

Application for transfer of brand

- (2) Where a transferee receives a certificate and declaration referred to in subsection (1), he shall forthwith forward that certificate and declaration to the Director accompanied by
 - (a) a written application for registration of the brand that was transferred, if at the time of application he is not an owner ; or
 - (b) a written application for cancellation of the brand that was transferred, or the registered brand of which he is an owner, if at the time of application he is an owner.

Application form

(3) An application made pursuant to paragraphs (1)(a) or (1)(b) shall be in the prescribed form and shall contain such information as may be required.

Registration where transfer of brand

- (4) Where the Director receives an application made pursuant to paragraph (2)(a), he shall
 - (a) register the brand in the name of the transferee ;
 - (b) deliver to the transferee a new brand certificate ; and
 - (c) cancel the registration and brand certificate of the transferor.

Cancellation of brand registration

(5) Where the Director receives an application made pursuant to paragraph (2)(b), he shall cancel the registration and brand certificate requested by the transferee. 1967 (2nd) c. 2, s. 11.

SALE OF STOCK

12. (1) Where any stock is sold, the vendor shall deliver to the purchaser a signed memorandum setting forth Sale of stock

- (a) the place and date of sale;
- (b) the number of stock sold;
- (c) the kind, age, sex and colour of each head of stock sold; and
- (d) a full description of and the location of all brands impressed on each head of stock.

(2) Every person who ships or moves stock impressed with a brand other than a brand registered in his name shall, at the request of the Director or his representative, produce a memorandum of sale listing the stock and signed by the owner of that brand. 1967 (2nd) c. 2, s. 12. Shipping or moving stock

CONCEALMENT OR ALTERATION OF BRANDS

13. (1) No person, without the written authority of the Director of his representative, shall obliterate, alter, deface or remove any brand on the hide of any stock whether that stock is dead or alive. Destroying or concealing brand

(2) No person shall remove the hide from the carcass of any stock that is found dead, unless that person is the owner of the stock or an agent of the owner. Removal of hides from stock found dead

(3) Every person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than two hundred and fifty dollars and in default of payment, to imprisonment for a term not exceeding two years. 1967 (2nd) c. 2, s. 13. Penalty

14. (1) Where the Director or his representative finds any stock with a mutilated brand or any hide that he believes has been improperly removed from a carcass, he may seize and, where he deems necessary, take away such stock or hides. Seizure of stock and hides

(2) The Director or his representative shall deliver up possession of any stock or hides seized under subsection (1) to any person who Surrender of seized stock and hides to owner

- (a) supplies evidence of ownership of the stock or hides that is satisfactory to the Director or his representative;
- (b) at the request of the Director, pays the complete cost and expenses incurred for seizing, taking away and detaining the stock or hides; and

(c) undertakes to indemnify the Director or his representative in respect of all claims by other persons having a superior claim to the stock or hides.

Sale of seized stock and hides

(3) Subject to subsection (2), the Director may at any time sell by public auction any stock or hides seized under subsection (1).

Proceeds of sale of seized stock and hides

(4) Where money obtained from the sale of stock or hides seized under subsection (1) is not claimed within six months following the date of sale, it shall be paid into the Yukon Consolidated Revenue Fund. 1967 (2nd) c. 2, s. 14.

BRANDING OF STALLIONS

15. (1) The owner of a stallion shall impress, or cause to be impressed, his brand upon such stallion upon the part set out in the brand certificate.

(2) The owner of a stallion shall keep such stallion confined within a building, corral or fenced field.

(3) The Director or his representative may destroy or geld any stallion found running at large. 1967 (2nd) c. 2, s. 15.

OFFENCES AND PENALTIES

Unlawful use of brands

16. (1) Every person who

- (a) impresses or assists in impressing upon any stock a brand that is not registered;
- (b) impresses or assists in impressing upon any stock a brand other than the registered brand of the owner of the stock;
- (c) being the owner of a brand, permits the use of his branding-iron by a person who is not his agent or servant;
- (d) is the owner of or has in his possession any stallion on which a registered brand has not been impressed; or
- (e) permits his stallion to run at large

is guilty of an offence and liable on summary conviction to a fine not exceeding eight hundred dollars and in default of payment, to imprisonment for a term not exceeding two years.

Onus of proof

(2) Where a person is charged with an offence under paragraph (1)(a) and it is shown that he was the owner of or in possession of any stock impressed with a brand that is not registered, that fact shall be received as *prima facie* proof that

he impressed or assisted in impressing that brand upon such stock.

(3) Where a person is charged with an offence under paragraph (1)(b), the onus of proving that he is the owner of the stock alleged to have been impressed with a brand other than the registered brand of the owner shall be on the accused. 1967 (2nd) c. 2, s. 16. Idem

17. (1) Any person who obstructs or interferes with the Director or his representative in carrying out any provision of this Ordinance is guilty of an offence. 1967 (2nd) c. 2, s. 17. Offence to obstruct or interfere

18. (1) Every person who violates any provision of this Ordinance for which no penalty is prescribed is guilty of an offence and liable on 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. 1967 (2nd) c. 2, s. 18. General penalty

GENERAL

19. (1) The Director may publish in the *Yukon Gazette* from time to time a complete list of registered brands together with the name and address of each owner and the area within which each owner's stock is usually found. 1967 (2nd) c. 2, s. 19. Publication of registered brands

20. (1) The Commissioner may make regulations Regulations

- (a) prescribing forms required under this Ordinance;
- (b) prescribing fees for registration and transfer of registration; and
- (c) generally for carrying out the purposes and provisions of this Ordinance. 1967 (2nd) c. 2, s. 20.

CHAPTER B-4

BULK SALES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Bulk Sales Ordinance*. R.O. 1958, c. 11, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“creditor” means a person to whom the vendor of stock is indebted, whether or not the debt is due, and includes a surety and the endorser of a promissory note or bill of exchange who would, upon payment by him of the debt, promissory note or bill of exchange in respect of which the suretyship was entered into or the endorsement was given, become a creditor of such vendor; “creditor”

“proceeds of the sale” includes the purchase price or consideration payable to the vendor or passing from the purchaser to the vendor on a sale in bulk and the moneys realized by a trustee under a security or by the sale or other disposition of any property coming into his hands as the consideration or part of the consideration for the sale; “proceeds of sale”

“purchaser” includes a person who gives to a vendor real or personal property in barter or exchange for a stock in bulk; “purchaser”

“sale”, whether used alone or in the expression “sale in bulk”, includes a transfer, conveyance, barter or exchange and an agreement to sell, transfer, convey, barter or exchange, and “sell” has a similar meaning; “sale”

“sale in bulk” means a sale of a stock or part thereof out of the usual course of business or trade of the vendor, or of substantially the entire stock of the vendor, or of an interest in the business of the vendor; “sale in bulk”

“stock” means “stock”

(a) stock of goods, wares, merchandise or chattels ordinarily the subject of trade and commerce, and

(b) the goods, wares, merchandise or chattels in which a person trades or that are produced or used in his business, trade or occupation;

- "stock in bulk" "stock in bulk" means any stock or portion thereof that is the subject of a sale in bulk ;
- "trustee" "trustee" means
- (a) an authorized trustee under the *Bankruptcy Act* appointed for the bankruptcy district or division wherein the stock of the vendor or some part thereof is located or the vendor's business or trade or some part thereof is carried on at the time of the sale in bulk thereof,
 - (b) any trust company licensed or authorized to carry on business in the Territory,
 - (c) any person named as trustee by the vendor or by the creditors of the vendor in their written consent to a sale in bulk, or
 - (d) any person appointed as trustee under section 13;
- "vendor" "vendor" includes a person who barter or exchanges stock in bulk with another person for other property, real or personal. R.O. 1958, c. 11, s. 2.

SCOPE OF ORDINANCE

- Persons to whom this Ordinance applies
3. (1) This Ordinance applies only to sales in bulk by,
- (a) persons who, as their ostensible occupation or part thereof, buy and sell goods, wares or merchandise ordinarily the subject of trade and commerce ;
 - (b) commission merchants;
 - (c) manufacturers; and
 - (d) proprietors of hotels, rooming houses, restaurants, motor vehicle service stations, oil or gasoline stations or machine shops. R.O. 1958, c. 11, s. 3.

- Scope of Ordinance
4. (1) Nothing in this Ordinance applies to or affects a sale by an executor, administrator, receiver, assignee or trustee for the benefit of creditors, authorized trustee under the *Bankruptcy Act*, official receiver or liquidator, a public official acting under judicial process, a trader or merchant selling exclusively by wholesale or an assignment by a trader or merchant for the general benefit of his creditors. R.O. 1958, c. 11, s. 4.

SALES IN BULK

- Statement of creditors to be furnished
5. (1) In this section
- (a) "statement" means the statement referred to in subsection (2), and

(b) "declaration" means the declaration referred to in subsection (2).

(2) Except as provided in this Ordinance, before paying to the vendor any part of the purchase price or giving a promissory note or security for the purchase price or part thereof or executing a transfer, conveyance or encumbrance of property, a purchaser of stock in bulk shall demand of and receive from the vendor, and the vendor shall furnish to the purchaser a written statement verified by the statutory declaration of the vendor or his duly authorized agent, or if the vendor is a corporation, by the statutory declaration of its president, vice-president, secretary-treasurer or manager.

(3) The statement shall contain the names and addresses of the creditors of the vendor and the amount of the indebtedness or liability due or to become due and payable by the vendor to each of the creditors.

(4) The statement and declaration may be in Form A in Schedule I.

(5) A purchaser may, before obtaining the statement, pay to the vendor a sum not exceeding fifty dollars on account of the purchase price.

(6) From and after the furnishing of the statement and declaration, no preference or priority shall be obtainable by any creditor of the vendor in respect of the stock in bulk or the proceeds of sale thereof by attachment, garnishment proceedings, contract or otherwise. R.O. 1958, c. 11, s. 5.

No preference or priority

6. (1) Before the completion of a sale in bulk,

Payment of creditors in full

(a) the claims of the creditors of the vendor as shown by the written statement referred to in section 5 shall be paid in full;

(b) the vendor shall produce and deliver to the purchaser a written waiver of the provisions of the Ordinance, other than the provisions of section 5, from creditors of the vendor representing not less than sixty per cent in number and amount of the claims exceeding fifty dollars as shown by the written statement, which waiver may be in Form B in Schedule I; or

(c) the vendor shall produce and deliver to the purchaser the written consent thereto of creditors of the vendor representing not less than sixty per cent in number and amount of the claims exceeding fifty dollars as shown by the written statement. R.O. 1958, c. 11, s. 6.

Consent of creditors to sale

When proceeds of sale to be paid over to trustee

7. (1) Where a sale in bulk is made with the written consent of the creditors of the vendor under paragraph 6, (c) the purchaser shall pay, deliver or convey the entire proceeds of the sale to the person named as trustee by the creditors in the written consent, or if no trustee is named therein, to the trustee named by the vendor or appointed under section 13, to be dealt with as provided by section 8. R.O. 1958, c. 11, s. 7.

Distribution of proceeds of sale

8. (1) Where the proceeds of the sale are paid, delivered or conveyed to a trustee under section 7, the trustee shall be a trustee for the general benefit of the creditors of the vendor and shall distribute the proceeds of the sale among the creditors of the vendor in proportion to the amounts of their claims as shown by the written statement and such other creditors of the vendor as file claims with the trustee in accordance with the *Bankruptcy Act*.

Idem

(2) The distribution shall be made in like manner as moneys are distributed by a trustee under the *Bankruptcy Act*, and in making the distribution all creditors' claims shall be proved in like manner, are subject to like contestation and are entitled to like priorities as in the case of a distribution under that Act.

Powers of creditors, etc.

(3) The creditors, vendor and trustee have in all respects the same rights, liabilities and powers as the creditors, authorized assignor and authorized trustee respectively have under the *Bankruptcy Act*, the vendor being deemed for such purpose to be an authorized assignor under that Act and the trustee an authorized trustee under that Act, and the priorities of creditors shall be determined as of the date on which the transfer of stock takes place.

Publication

(4) Before making distribution, the trustee shall

- (a) cause a notice thereof to be published twice in the *Yukon Gazette*, and
- (b) allow a period of at least fourteen days to elapse after the last of such publications.

Idem

(5) Except as provided in subsection (4), no advertisement or notice of the distribution need be published. R.O. 1958, c. 11, s. 8.

Fees of trustees

9. (1) The fees or commission of the trustee shall not exceed three per cent of the proceeds of the sale that come to his hands, and in the absence of an agreement by the vendor to the contrary, the fees or commission, together with any disbursements made by the trustee, shall be paid by being

deducted out of the moneys to be received by the creditors and shall not be charged to the vendor. R.O. 1958, c. 11, s. 9.

10. (1) A sale in bulk in respect of which this Ordinance has not been complied with shall be deemed to be fraudulent and void as against the creditors of the vendor, and every payment made on account of the purchase price, every delivery of a note or other security therefor and every transfer, conveyance and encumbrance of property by the purchaser shall be deemed to be fraudulent and void as between the purchaser and the creditors of the vendor.

Sale void against creditors unless Ordinance complied with

(2) Where this Ordinance has not been complied with in respect of a sale in bulk and the purchaser has received or taken possession of the stock in bulk, he is personally liable to account to the creditors of the vendor for the value thereof including all moneys, security or property realized or taken by him from, out of or on account of the sale or other disposition by him of the stock in bulk.

When purchaser personally liable

(3) In an action brought or proceedings had or taken by a creditor of the vendor within the time limited by section 12 to set aside or have declared void a sale in bulk, or in the event of a seizure of the stock or some part thereof in the possession of the purchaser under judicial process issued by or on behalf of a creditor of the vendor within such period, the purchaser shall be estopped from denying that the stock in his possession at the time of the action, proceedings or seizure is the stock purchased or received by him from the vendor.

Estoppel

(4) Where at the time action is brought, proceedings are taken or a seizure is made as referred to in subsection (3) and the stock in the possession of the purchaser or any part thereof was in fact purchased by him subsequent to the sale in bulk from a person other than the vendor of the stock in bulk and has not been paid for in full, the creditors of the purchaser are, to the extent of the amounts owing to them for the goods so supplied, entitled to share with the creditors of the vendor in the amount realized on the sale or other disposition of the stock in the possession of the purchaser at the time of the action, proceedings or seizure in like manner and within the same time as if they were creditors of the vendor. R.O. 1958, c. 11, s. 10.

Rights of creditors

GENERAL PROVISIONS

11. (1) In a proceeding wherein a sale in bulk is attacked or comes in question, whether directly or collaterally, the burden of proof that this Ordinance has been complied with

Burden of proof on purchaser

is upon the person upholding the sale in bulk. R.O. 1958, c. 11, s. 11.

Limitation of time in which to bring action to set sale aside

12. (1) No action shall be brought or proceedings had or taken to set aside or have declared void a sale in bulk for failure to comply with this Ordinance unless the action is brought or proceedings had or taken within six months from the date of the completion of the sale. R.O. 1958, c. 11, s. 12.

Appointment of trustee by judge

13. (1) Where the creditors of the vendor in their written consent to a sale in bulk have not named a trustee and the vendor has not named one, a judge, upon the application of a person interested, shall by order appoint a trustee and fix the security, if any, to be given by him. R.O. 1958, c. 11, s. 13.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

SCHEDULE I

FORM A

(Section 5)

STATEMENT AND DECLARATION

Statement showing names and addresses of all creditors of

Name of Creditors	Post Office Address	Nature of indebtedness	Amount	When Due

I,....., of..... in the Yukon Territory, do solemnly declare that the above is a true and correct statement of the names and addresses of all creditors of....., and shows correctly the amount of indebtedness or liability due, owing, payable or accruing due or to become due and payable by..... to each of said creditors (*If the declaration is made by an agent, add: I am the duly authorized agent of the vendor and have a personal knowledge of the matters herein declared to.*)

(Or, if the vendor is a Corporation)

I,....., of..... in the Yukon Territory, do solemnly declare that the above is a true and correct statement of the names and addresses of all the creditors of the (*name of Corporation*) and shows correctly the amount of the indebtedness or liability due, owing, payable or accruing due, or to become due, and payable by the Corporation to each of the said creditors, and that I am the..... of the said Corporation, and have a personal knowledge of the matters herein declared to.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at the }
of..... }
 in the Yukon Territory this }
day of..... }
 A.D. 19..... }
 }
 A Notary Public }



FORM B
(Section 6)

WAIVER

We, the undersigned creditors of.....
of..... in the Yukon Territory, do hereby
waive the provisions of the *Bulk Sales Ordinance* of the Yukon
Territory in so far as the said Ordinance would apply to, affect
or cause to make fraudulent or void the sale in bulk by the said
..... of his stock of goods, wares,
merchandise and fixtures, or part thereof, or an interest in his
business (*as the case may be*) to.....
of..... in the Yukon Territory and we do
hereby admit having received notice of the intended sale and
agree not to disturb, dispute or question the validity of the said
sale in any way under the provisions of the said Ordinance.

Dated this..... day of....., A.D. 19.....

Signed in the presence of.....

R.O. 1958, c. 11, Sched. A.

CHAPTER B-5

BUSINESS LICENCE ORDINANCE

1. This Ordinance may be cited as the *Business Licence Ordinance*. R.O. 1958, c. 12, s. 1. Short title

2. (1) In this Ordinance, "resident" means a person who resides in the Territory for not less than eight months in each year. R.O. 1958, c. 12, s. 2. "resident" defined

3. (1) This Ordinance does not apply to those portions of the Territory that are situated within the boundaries of any municipality. R.O. 1958, c. 12, s. 3. Application

4. (1) The Commissioner or a person authorized by him may issue licences under this Ordinance. Issue of licence

(2) Where a person is required by the *Workmen's Compensation Ordinance* to insure and maintain insurance for the protection of his employees, the Commissioner shall refuse to issue a licence to that person under this Ordinance if he fails to produce satisfactory evidence showing that he has complied with the *Workmen's Compensation Ordinance*. Where insurance for employees required

(3) Where a person who is required by the *Workmen's Compensation Ordinance* to insure and maintain insurance for the protection of his employees has failed to comply with that Ordinance, the Commissioner shall suspend or cancel the licence issued to such person. R.O. 1958, c. 12, s. 4. Commissioner may suspend or cancel

5. (1) No person shall carry on within the Territory any business, calling, trade or occupation without having first obtained a licence for the purpose and paid the prescribed fee. Prohibition

(2) Notwithstanding anything in this Ordinance, no licence is required by this Ordinance to be obtained by any person for the purpose of carrying on within the Territory Saving provision

(a) the business of publishing a newspaper, and

(b) the occupation of prospecting, mining exploration and development or oil and gas exploration and development R.O. 1958, c. 12, s. 5; 1960 (1st) c. 7, s. 1; 1971 (1st) c. 20, s. 3 (1).

Partnership

6. (1) In the case of persons engaged in, following, practising, carrying on or exercising any trade, occupation, profession, business or calling as members of a partnership, it shall be sufficient compliance with this Ordinance if one licence is taken out by the partnership in the partnership name in respect of that trade, occupation, profession, business or calling, and the licence fee is paid thereon. R.O. 1958, c. 12, s. 6.

Prescribed fee payable by person carrying on business

7. (1) The prescribed fee shall be payable by the person engaging in, following, practising, carrying on or exercising the trades, occupations, businesses, professions, or callings for each store, office, house or place of business, calling or trade occupied or carried on by him, either in his own name or in the name of an agent or representative in any part of the Territory. R.O. 1958, c. 12, s. 7; 1971 (1st) c. 20, s. 3 (2).

Offence and penalty

8. (1) Subject to subsection 5(2) and section 9 any person engaging in, following, practising, carrying on or exercising any trade, occupation, profession, business or calling without having taken out and had granted to him and holding a licence in that behalf is guilty of an offence under this Ordinance and liable upon summary conviction to a penalty not exceeding one hundred dollars, together with the amount that he should have paid for such licence. R.O. 1958, c. 12, s. 8; 1971 (1st) c. 20, s. 3(3).

Other ordinances

9. (1) Where a person is required, pursuant to any other ordinance, to obtain a licence from the Government of the Territory for the purpose of carrying on within the Territory any business, calling, trade or occupation, no licence is required to be obtained by him for that purpose pursuant to this Ordinance.

(2) Subsection (1) shall not apply in respect of a licence obtained by an extra-territorial company under the provisions of the *Companies Ordinance* authorizing it to carry on business within the Territory. R.O. 1958, c. 12, s. 9; 1960 (1st) c. 7, s. 2; 1971 (1st) c. 20, s. 3(4).

Application to be in writing

10. (1) Every application for a Territorial trade licence shall be in writing, and shall set forth the following particulars:

- (a) the name, occupation and address of the applicant;
- (b) the nature of the licence applied for;
- (c) the place where the trade, occupation, business, profession, employment or calling, if licensed, will be carried on; and

(d) such further and other particulars as the Commissioner may require. R.O. 1958, c. 12, s. 11.

11. (1) Unless it is expressly issued for a lesser period and so endorsed, a licence shall be for the fiscal year current at the time of issue, and shall expire on the thirty-first day of March next thereafter. Expiry date

(2) The fee payable in respect of any licence shall be an annual fee whether the licence is issued on the first day of April in any year or any later day, unless it is expressly paid for a licence for a shorter period, or a particular occasion or event and the licence is so endorsed. R.O. 1958, c. 12, s. 12.

12. (1) With the consent of the Commissioner, a licence may be transferred if the applicant for such transfer of licence files with the Commissioner an application in writing setting forth: Transfer of licence

- (a) the name, occupation and address of the applicant;
- (b) the nature and number of the licence to be transferred;
- (c) the name and address of the licensee from whom the licence will be transferred;
- (d) the place where the applicant will carry on business under the licence;
- (e) the real consideration or reason for the transfer of the licence; and
- (f) such further and other particulars as the Commissioner may require. R.O. 1958, c. 12, s. 13; 1971 (1st) c. 20, s. 3(6).

13. (1) Wherever by this Ordinance power is given to the Commissioner to grant or issue licences for any trade, business, profession, occupation, calling, employment or purpose, he shall have power to revoke or to suspend any licence so granted in the event of the holder of such licence being convicted of a breach of any law or Ordinance relating to the trade, business, profession, occupation, calling, employment or purpose in respect of which such licence was granted or issued. Power to suspend or revoke licence

(2) In such case there shall be no refund made of any part of the fee paid by the licensee in respect of such licence. R.O. 1958, c. 12, s. 14.

14. (1) Every person to whom a licence is issued under this Ordinance shall Display and production of licences

- (a) display and keep displayed in some conspicuous public position in the place of business, if any, where he carries on the business, calling, trade or occupation in respect of which he is licenced, his licence for the current year; and
- (b) produce his licence when required to do so by the Commissioner or by a person authorized by the Commissioner to require production of the licence. 1961 (1st) c. 3, s. 1.

15. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20, s. 3 (7).

CHAPTER C-1

CANCER DIAGNOSIS ORDINANCE

1. This Ordinance may be cited as the *Cancer Diagnosis Ordinance*. 1962 (1st) c. 11, s. 1. Short title
2. (1) In this Ordinance Definitions
- “Administrative Officer” means the Yukon Hospital Insurance Administrator appointed by the Commissioner under the provisions of the *Yukon Hospital Insurance Ordinance*; “Administrative Officer”
- “resident” means a person, other than an Indian as defined under the *Indian Act of Canada* or an Eskimo, who has resided in the Yukon for a period of three consecutive months out of the twelve consecutive months immediately preceding the date of application for diagnosis or treatment; “resident”
- “diagnostic procedure” includes X-ray and laboratory tests as recommended or conducted by a qualified medical practitioner. 1962 (1st) c. 11, s. 2. “diagnostic procedure”
3. (1) When a qualified medical practitioner as a result of preliminary examination and diagnostic tests has reason to believe a resident is suffering from cancer he shall so certify to the Administrator and the Administrator may then authorize the necessary expenditure to ensure such resident is given an opportunity of further diagnostic procedure or treatment including the costs of transportation to an approved centre for such purpose. 1962 (1st) c. 11, s. 3.
4. (1) The Commissioner may make regulations
- (a) setting out the application procedure to be followed by a resident applying for diagnostic procedure or treatment or transportation costs, and
- (b) generally for the administration of this Ordinance. 1962 (1st) c. 11, s. 4.

CHAPTER C-2

CEMETERIES AND BURIAL SITES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Cemeteries and Burial Sites Ordinance*. 1967 (1st) c. 1, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“burial site” means the location of any human grave or graves, tomb, burial mound or other burial place not situated within a cemetery; “burial site”

“cemetery” means a defined area of land that is set aside for the burial of human bodies. 1967 (1st) c. 1, s. 2. “cemetery”

PROHIBITIONS

3. (1) No person shall Prohibitions respecting cemeteries

(a) wilfully destroy, mutilate, deface, injure or remove

(i) any tomb, monument, marker, gravestone or other structure placed in a cemetery, or

(ii) any fence, railing or other work erected for the protection or ornament of a cemetery;

(b) wilfully destroy, cut, break or injure any tree, shrub or plant in a cemetery;

(c) play any game or sport in a cemetery;

(d) except at a military funeral, discharge firearms in a cemetery;

(e) wilfully disturb persons assembled for the burial of a body in a cemetery; or

(f) commit a nuisance in a cemetery. 1967 (1st) c. 1, s. 3.

4. (1) No person, without the written permission of the Commissioner, shall No disturbance of burial sites

(a) excavate or investigate a burial site;

(b) remove from or disturb a body in a burial site; or

(c) remove or disturb a marker, monument or fence in connection with such site. 1967 (1st) c. 1, s. 4.

Prohibitions **5.** (1) No person shall deposit garbage, rubble, brush, ashes or refuse within a distance of three hundred feet of a burial site. 1967 (1st) c. 1, s. 5.

No markers to be erected on burial sites **6.** (1) No person shall, without the written permission of the Commissioner, erect any marker, monument, sign or notice on any burial site unless he is

- (a) a relative of a person whose body is buried therein; or
- (b) a member of the Royal Canadian Mounted Police engaged in marking or protecting such site in the course of his duties. 1967 (1st) c. 1, s. 6.

PERMITS

Permit to care for burial site **7.** (1) The Commissioner may grant a permit to any person authorizing him to care for, ornament and protect a burial site, but such a permit does not entitle that person to demand from the Territory or any person remuneration for services performed.

Revocation of permit (2) The Commissioner may revoke any permit granted under subsection (1).

Report by permit holder (3) During the month of January in each year, every person who holds a permit under subsection (1) shall make a report in duplicate to the Commissioner stating in detail the work done under his permit during the preceding year. 1967 (1st) c. 1, s. 7.

PENALTIES

Offence and penalty **8.** (1) Any person who violates any provision of this Ordinance or any regulation made thereunder is guilty of an offence and is liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a period not exceeding six months, or to both fine and imprisonment. 1967 (1st) c. 1, s. 8.

REGULATIONS

Regulations **9.** (1) The Commissioner may make regulations

- (a) respecting the establishment, maintenance and operation of cemeteries and burial sites;
- (b) respecting the content and form of records to be made with respect to burials and the custody thereof, and
- (c) generally for carrying out the purposes and provisions of this Ordinance. 1967 (1st) c. 1, s. 9.

CHAPTER C-3

CHANGE OF NAME ORDINANCE

- 1.** This Ordinance may be cited as the *Change of Name Ordinance*. R.O. 1958, c. 14, s. 1. Short title
- 2.** (1) In this Ordinance Definitions
- “change” means any change by way of alteration, substitution, addition or abandonment; “change”
- “child” means an unmarried child under the age of twenty-one years, including an adopted child who has been adopted in accordance with the law of the place at which the adoption was affected; “child”
- “given name” includes Christian name and baptismal name; “given name”
- “name” includes given name and surname; “name”
- “surname” includes family name and patronymic. R.O. 1958, c. 14, s. 2. “surname”
- 3.** (1) Subject to subsections (2) and (3), no person shall change his name except under this Ordinance. Changes to be under Ordinance
- (2) This Ordinance does not apply to a change of surname to that of her husband by a woman upon marriage, the adoption of her maiden name by a woman upon dissolution of her marriage or to a change of name effected under the *Adoption Ordinance*. Certain exceptions
- (3) Nothing in this Ordinance shall be deemed to affect any change of name lawfully effected prior to the 29th day of March, 1954. R.O. 1958, c. 14, s. 3. Prior changes
- 4.** (1) Subject to subsections (2) and (3), any person who is twenty-one or more years of age, is a Canadian citizen and has resided in the Territory for at least one year prior to the date of his application may apply to the Court for a change of name. Who may apply
- (2) Where a person has not resided in the Territory for at least one year prior to the date of his application for a change of name, he may apply to the Court for an order allowing him to make such application and the Court may Special Court Order where residence insufficient

make such order where satisfied that hardship would otherwise be caused.

Married woman cannot apply re surname

(3) No married woman shall, during the life of her husband, apply for a change in the surname acquired from him. R.O. 1958, c. 14, s. 4.

Consents

5. (1) The provisions of this Ordinance requiring consent to a change of name do not apply to a person who is under the age of fourteen years or to a person who by reason of mental or physical infirmity is unable to give consent and the Court may, in any case in which a person whose consent is required cannot be found or where for any other reason it is satisfied that a consent may be dispensed with, dispense with the requirement of a consent. R.O. 1958, c. 14, s. 5.

Mentally incompetent adult children

6. (1) Notwithstanding the definition of "child", where, under this Ordinance, a change of name affecting unmarried children under the age of twenty-one years may be obtained, the Court may, in its discretion, direct that the application and resulting order shall extend to unmarried children who are over that age and who, by reason of mental incapacity, are unable to apply for a change of name. R.O. 1958, c. 14, s. 6.

Married man

7. (1) A married man who applies for a change of name

- (a) shall, respecting any change of his surname, obtain the consent of his wife ;
- (b) shall, respecting any change of his surname, also apply for a like change in the surname of his wife and all his or their children ;
- (c) may, with the consent of his wife and any child concerned, apply for a change in the given name of his wife or of any or all of his or their children ; and
- (d) may, with the consent of such child and that of the wife of such child, apply for a change in the name of a married male child, who is under the age of twenty-one years, the wife of such child and any children of such child. R.O. 1958, c. 14, s. 7.

Widower or widow

8. (1) A widower or a widow who applies for a change of name

- (a) shall, respecting any change of his or her surname, also apply for a like change in the surname of all his or her children ;

- (b) may, with the consent of any child concerned, apply for a change in the given name of any or all of his or her children ;
- (c) may, with the appropriate consent of any child concerned, apply for a change in the name of any children that are in his or her lawful custody and that are the children of a deceased wife or husband ; and
- (d) may, with the consent of such child, and that of a wife of such child, apply for a change in the name of a married male child who is under the age of twenty-one years, the wife of such child, and any children of such child. R.O. 1958, c. 14, s. 8.

9. (1) Subject to subsection (3), a person whose marriage has been dissolved may apply for a change of name and may, with the consent of the other parent, if living, and with the consent of the children affected, apply for a like change in the surname or a change in the given names of any or all of his or her children that are in his or her lawful custody.

Divorced person

(2) An application under this section shall indicate whether or not the other parent is living and shall be accompanied by such proof respecting the dissolution of the marriage and custody of the children as the Court may require.

Nature of application

(3) Where a woman, whose marriage has been dissolved, remarries, she must obtain the consent of her husband by remarriage if she applies for a change in the surname of her children to that of her husband. R.O. 1958, c. 14, s. 9.

Divorced woman who remarries

10. (1) A widow who remarries or an unmarried mother who marries may, with the consent of the man she marries and the consent of her children, apply for a change in the surname of her children to that of such man.

Marriage by widow or unmarried mother

(2) An unmarried mother may apply for a change of name and may, with their consent, apply for a change of the names of any or all of her children living with her. R.O. 1958, c. 14, s. 10.

Unmarried mother

11. (1) Every application for a change of name shall be filed with the Clerk of the Court, together with such other documents as may be required under this Ordinance accompanied by the prescribed fee.

Filing of application

- (2) Every application for a change of name shall set forth
 - (a) the surname and given names of the applicant ;

Contents

- (b) the address of the applicant and the date and place of his birth ;
- (c) the full name of the applicant's father and the maiden name in full of his mother ;
- (d) where the applicant is married, the name in full of the spouse, the date and place of marriage, the full name of the spouse's father and the maiden name in full of the spouse's mother ;
- (e) a statement that the applicant is a Canadian citizen ;
- (f) the occupation or calling of the applicant ;
- (g) full particulars of any civil or criminal action pending against the applicant, any chattel mortgage, lien or other encumbrance registered against the property of the applicant and, if none, a statement to that effect ;
- (h) the change of name desired and full particulars of any previous change of name or statement that there was none ;
- (i) the names, ages and particulars of all persons whose consents are required and if a consent has not been obtained the reason for it ;
- (j) the names, ages and particulars of all persons whose names may be changed as a result of the application ; and
- (k) a statement of the reasons for desiring a change of name.

Other documents

(3) Every application for a change of name shall be accompanied by

- (a) an affidavit by the applicant deposing that the application is made in good faith and for no improper purpose, that the statements set out in the application are true and that, unless a Court order under subsection 4(2) has been obtained, the applicant has resided in the Territory for at least one year immediately prior to the application ;
- (b) a certificate of the sheriff of the Territory as to the existence of any unsatisfied executions against the property of each person whose name may be changed as a result of the application ; and
- (c) such consents, in writing, or other documents that are required by this Ordinance respecting the particular application in question, including such proof as the Court may require that the applicant is a Canadian citizen. R.O. 1958, c. 14, s. 11 ; 1971 (1st) c. 20, s. 4(1).

Objection to application

12. (1) Any person who objects to a change of name shall file his objection in writing with the Clerk of the Court and

pay the prescribed fee. R.O. 1958, c. 14, s. 12; 1971 (1st) c. 20, s. 4(2).

13. (1) Where an application for a change of name has been filed, the Court shall, where no objection to the application has been filed and it is satisfied that the application and all supporting documents are in order and may be granted, grant the application without a hearing and shall, in any other case, appoint a time and place for the hearing of the application.

May grant without hearing or set a hearing

(2) At a hearing the Court may require the applicant, any person whose name will be affected by the application and any other person who, in the opinion of the Court, has information respecting the application or any circumstances connected therewith to give evidence under oath and examine any such person or permit him to be examined by any interested person. R.O. 1958, c. 14, s. 13.

Hearing

14. (1) Where the Court is of opinion on a hearing that any change of name that would result from the granting of an application might reasonably cause mistake or confusion or be a cause of embarrassment or inconvenience, or has been sought for any improper purpose or would on any other ground be objectionable, the Court shall refuse the application and make an order to that effect.

Where rejected on hearing

(2) Where the Court is of opinion on a hearing that the application should in whole or in part be granted, it shall make an order to that effect. R.O. 1958, c. 14, s. 14.

Where allowed

15. (1) An order made under this Ordinance shall provide for such changes of names as the Court deems proper having regard to the nature of the application, objections thereto or any other evidence adduced, the relationship and status of persons affected thereby and all other relevant circumstances and the order shall have effect according to the tenor thereof.

Order

(2) Every such order shall be entered by the Clerk of the Court who shall send two certified copies thereof and a certified copy of the application and supporting documents to the Registrar General of Vital Statistics and shall also send to the sheriff a certified copy of the order and any particulars shown on the application respecting any judgment, pending action, chattel mortgage, lien or other registered encumbrance relating to any person affected by the order.

Clerk to enter and transmit to certain persons

Sheriff to note change

(3) Where the sheriff of the Territory has received a copy of the order, and any particulars pursuant to subsection 15(2), he shall enter and re-index any such judgment pending action, chattel mortgage, lien or other registered encumbrance under the name as changed. R.O. 1958, c. 14, s. 15.

Certified copy may be obtained

16. (1) Any person may obtain from the Clerk of the Court a certified copy of an order effecting a change of name and such certified copy is conclusive evidence of its contents.

Persons entitled to have change endorsed

(2) Subject to the *Vital Statistics Ordinance*, and without restricting the effect that a change of name may have at law, a person whose name has been changed under this Ordinance is, upon production of the certified copy of the order and satisfactory proof of identity, entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private. R.O. 1958, c. 14, s. 16.

Application to annul

17. (1) Every person who has reason to believe that an order effecting a change of name has been obtained by fraud, misrepresentation or for an improper purpose may apply to the Court for an annulment of the order.

Affidavit and fee

(2) An application for annulment shall be accompanied by an affidavit of the applicant setting out the reason therefor and by the prescribed fee.

Hearing and order

(3) The Court may refuse such application or may set a time and place for the hearing of the application and shall, upon the hearing, have power to call witnesses and hear evidence as it deems proper and shall make an order as it deems proper refusing the application or annulling the order of change of name in whole or in part.

Duties of Clerk and copies

(4) The Clerk of the Court shall enter an annulling order and suitably endorse the previous order that is wholly or partially annulled, shall send two certified copies of the annulling order to the Registrar General of Vital Statistics and one certified copy to the sheriff of the Territory who shall amend their records accordingly, and one certified copy to any other sheriff to whom a copy of the order and particulars were sent pursuant to subsection 15(2).

Certificates may be recalled

(5) Where an order annulling a previous change of name order has been made, any certified copy of the previous order may be demanded from the person to whom it was issued and such person shall forthwith comply with such demand. R.O. 1958 c. 14, s. 17.; 1971 (1st) c. 20, s. 4.(3).

Change of Name

Chap. C-3

18. (1) Every person who, by fraud, misrepresentation or for an improper purpose, obtains or attempts to obtain a change of name under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars. Offence of improper obtaining

(2) Every person who refuses to return a certified copy of an order that has been annulled or otherwise refuses to comply with a lawful order or demand under this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 14, s. 18. Refuses to obey

19. (1) The Commissioner may make regulations for carrying out the provisions and purposes of this Ordinance. R.O. 1958, c. 14, s. 19. Regulations

CHAPTER C-4

CHILD WELFARE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Child Welfare Ordinance*. 1970 (1st) c. 2, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“born out of wedlock” means born to a mother who, at the time of the conception of the child, was “born out of wedlock”

(a) unmarried; or

(b) widowed or divorced at least three months prior to that date; or

(c) 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;

“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”

“child” means an unmarried person “child”

(a) actually or apparently under the age of eighteen; or

(b) 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” 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; “day nursery”

“Director” means the Director of Child Welfare appointed under this Ordinance; “Director”

“foster home” means a private home which has been approved by the Director for the placement of a child, “foster home”

- irrespective of whether any payment is made for maintenance of such child ;
- "group home" "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" "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" "justice" means a judge of a juvenile court and includes a police magistrate or any justice of the peace ;
- "parent" "parent" includes a step-parent or guardian except in Part IV ;
- "protective care" "protective care" includes custody, care and control ;
- "ward" "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. 1970 (1st) c. 2, s. 2.

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. 1970 (1st) c. 2, s. 3.
- Staff **4.** (1) The Commissioner may appoint such persons to assist the Director in the performance of any of his duties under this Ordinance as he deems necessary. 1970 (1st) c. 2, s. 4.
- Duties of Director **5.** (1) The Director shall
- (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. 1970 (1st) c. 2, s. 5.

PART II

PROTECTION OF CHILDREN

- 6. (1)** For the purpose of this Part a child is deemed to be in need of protection when
- | | |
|--|------------------|
| (a) he is an orphan who is not being properly cared for; | Orphan |
| (b) he is deserted by the person in whose charge he is; | Desertion |
| (c) the person in whose charge he is cannot care properly for him; | Incapacity |
| (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; | Consent |
| (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; | Abandonment |
| (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 home |
| (g) he is found associating with an unfit or improper person who is not his parent; | Unfit associates |
| (h) he is found begging in any street, house or place of public resort, whether actually begging or under the | Begging |

- 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 ;
- Tuancy (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 ;
- Lack of affection (m) 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 ;
- Ill-treatment (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 ;
- Lack of control (o) the person in whose charge he is, is incapable of exercising or unwilling to exercise proper parental control ;
- Consent (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 ;
- Absence of parents (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. 1970 (1st) c. 2, s. 6.

Apprehension without warrant 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.

(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 (2)(a) 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. 1970 (1st) c. 2, s. 7.

8. (1) 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 Notice of application

- (a) the parents if their address is known ;
- (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. 1970 (1st) c. 2, s. 8.

9. (1) The justice before whom a child is brought pursuant to subsection 7(3) shall, upon hearing such evidence as may be adduced at the hearing, determine whether or not the child is in need of protection. 1970 (1st) c. 2, s. 9. Determination

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. Adjournment

(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 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. 1970 (1st) c. 2, s. 10.

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 Justice's order

birth, place of birth, nationality, religion and status of the child, the name and place of abode, occupation, and religion of the parents or either of them, and whether or not either of such parents is dead or has abandoned the child.

Other orders

- (2) An order under subsection (1) may provide that
- (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 temporary protective care.

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

Director to be guardian

- (4) When a child is committed to the protective care 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.

Fresh application

(5) Where, pursuant to subsection (2), a child has 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. 1970 (1st) c. 2, s. 11.

Copy of orders

12. (1) The justice shall deliver to the Director a certified copy of the order made in each case. 1970 (1st) c. 2, s. 12.

13. (1) 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. 1970 (1st) c. 2, s. 13. Single order

14. (1) From the time that a child is apprehended pursuant to subsection 7(1) 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 that time. 1970 (1st) c. 2, s. 14. No liability for medical treatment

15. (1) Where, pursuant to subsection 11(2) 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 other place 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. Placement of child

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

- (a) the guardianship is terminated by an order made under subsection 17(2);
- (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. 1970 (1st) c. 2, s. 15.

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 a period 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 15(2) shall apply *mutatis mutandis*. Extension of Guardianship

(2) This section applies to orders made under the *Protection of Children Ordinance*. 1970 (1st) c. 2, s. 16. Transitional application

Application for variation

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

- (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.

Order subject to conditions

(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,

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

Notice of application

(3) Five days' notice of an application made under subsection (1) shall be given by the person making the 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 (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. 1970 (1st) c. 2, s. 17.

VISITING AND INSPECTION

Foster home etc., subject to rules

18. (1) 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 5(3),
- (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. 1970 (1st) c. 2, s. 18.

19. (1) 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. 1970 (1st) c. 2, s. 19. Inspection

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, 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, make such order under section 11 as he deems proper. 1970 (1st) c. 2, s. 20. 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 Grounds

living accommodation prescribed by the Director, he shall issue an order of closure.

Aggrieved person to be heard

(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. 1970 (1st) c. 2, s. 21.

TRANSFER OR WARDS

Child from another jurisdiction

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.

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 the child. 1970 (1st) c. 2, s. 22.

Establishment of group homes

23. (1) 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. 1971 (1st) c. 2, s. 23.

Offences

24. (1) 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 the 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. 1970 (1st) c. 2, s. 24.

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 Director, the Assistant Director or any member of the social work staff of the Department of Social Welfare. Public duty to report

(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. 1970 (1st) c. 2, s. 25. Information privileged

- 26. (1)** 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. 1970 (1st) c. 2, s. 26.

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*. 1971 (1st) c. 2, s. 27. 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 Variation of orders

such variation of the order already made as the circumstances may warrant.

(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. 1971 (1st) c. 2, s. 28.

Duration of order

29. (1) 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. 1970 (1st) c. 2, s. 29.

Notice

30. (1) 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. 1970 (1st) c. 2, s. 29.

Enforcement

31. (1) 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*. 1970 (1st) c. 2, s. 31.

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. 1970 (1st) c. 2, s. 32.

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 neglect or refusal described in paragraph 6(1)(l), 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 7(1), if the child has not already been apprehended, and brought before a justice for committal to the Director pursuant to paragraph 11(2)(c) 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. 1970 (1st) c. 2, s. 33.

34. (1) Where it appears to the Commissioner that Investigation 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. 1970 (1st) c. 2, s. 34.

35. (1) 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 11(2)(c), and the provisions of section 17 shall apply *mutatis mutandis*. 1970 (1st) c. 2, s. 35.

36. (1) No child who is held or brought before a justice for enquiry under this Ordinance shall be placed or allowed to Child to be separate from adults

remain with any adult prisoner in any lock-up or police cell used for ordinary criminals or persons charged with crime. 1970 (1st) c. 2, s. 36.

Payments on behalf of child

37. (1) 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*. 1970 (1st) c. 2, s. 37.

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. 1970 (1st) c. 2, s. 38.

Proof of age

39. (1) 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. 1970 (1st) c. 2, s. 39.

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. 1970 (1st) c. 2, s. 40.

PART III

CHILDREN BORN OUT OF WEDLOCK

INTERPRETATION

- 41. (1) In this Part** Definitions
- “child” means a child of an unmarried woman and includes a child *en ventre sa mère*; “child”
- “contributor” means a man against whom a contribution order has been made under this Part; “contributor”
- “contribution proceedings” means proceedings instituted under this Part against a man; “contribution proceedings”
- “unmarried woman” means a woman who, at the date a child was conceived by her “unmarried woman”
- (a) was unmarried; or
 - (b) was widowed or divorced at least three months prior to that date; or
 - (c) 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. 1970 (1st) c. 2, s. 41.

CONTRIBUTION PROCEEDINGS

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 Institution of proceedings to obtain contribution order

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. 1970 (1st) c. 2, s. 42.

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. 1970 (1st) c. 2, s. 43.

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.

Service where man is a member of the forces

(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 out of the Territory

(3) Service out of the Territory of a summons issued pursuant to section 43 may be made without an order. 1970 (1st) c. 2, s. 44.

Length of notice of hearing

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

- (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. 1970 (1st) c. 2, s. 45.

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 Penalty for breach
- (b) the justice is satisfied that it is probable that the man will not appear at the hearing voluntarily,

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. 1970 (1st) c. 2, s. 46.

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

- (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.

(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. 1970 (1st) c. 2, s. 47. Negative evidence

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.

Contribution of mother

(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.

Estimate of amount of payments

(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

- (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*. 1970 (1st) c. 2, s. 48.

49. (1) In contribution proceedings, the justice may fix any solicitors fees and may Solicitors fees

- (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. 1970 (1st) c. 2, s. 49.

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 42 (1) jointly or severally against each such man. Joint or several 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. Prior proceedings

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.

Contribution order

(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. 1971 (1st) c. 2, s. 50.

Order on non-appearance

51. (1) Where contribution proceedings are instituted against a man under subsection 42(1) 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 he 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,

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

Terms of order

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

- (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.

Rehearing

(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.

Defect in summons or warrant

(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. 1971 (1st) c. 2, s. 51.

52. (1) 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:

Time for commencement of proceedings

- (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. 1970 (1st) c. 2, s. 52.

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. 1970 (1st) c. 2, s. 54.

Enforcement of order

APPEALS

54. (1) 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. 1970 (1st) c. 2, s. 54.

Procedure

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.

Notice

- (2) Notice of appeal shall be served upon
 - (a) the justice who made the order;
 - (b) the respondent; and
 - (c) the Director.

Order sent to Director

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

No further appeal

(4) The order or decision of the Court upon such appeal shall not be subject to further appeal except on a matter of law. 1970 (1st) c. 2, s. 55.

Payment to Director

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.

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.

(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. 1970 (1st) c. 2, s. 56. Idem

PENALTY

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. Default

(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;

Order of committal

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. 1971 (1st) c. 2, s. 57. 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 Proceedings stayed

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.

Default

(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.

Agreement
prima facie
proof of patern-
ity

(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. 1970 (1st) c. 2, s. 58.

NOTIFICATION AND INVESTIGATION

Notification by
registrar

59. (1) 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. 1970 (1st) c. 2, s. 59.

Notification by
institution

60. (1) Every person in charge of a hospital or other institution that has received a woman for care during pregnancy who appears to be an unmarried woman shall, within three days after her admittance, report her admittance to the Director. 1970 (1st) c. 2, s. 60.

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. 1970 (1st) c. 2, s. 61.

GENERAL

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

- (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. 1971 (1st) c. 2, s. 62.

63. (1) 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 Estate bound

- (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. 1970 (1st) c. 2, s. 63.

64. (1) 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. 1970 (1st) c. 2, s. 64. Leave of judge

65. (1) 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. 1970 (1st) c. 2, s. 65.

PART IV

ADOPTION

INTERPRETATION

66. (1) In this Part Definition

"child" "child" means a person under the age of twenty-one years. 1970 (1st) c. 2, s. 66.

ADOPTION PROCEEDINGS

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

- (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. 1970 (1st) c. 2, s. 67.

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. 1970 (1st) c. 2, s. 68.

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. 1970 (1st) c. 2, s. 69.

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

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

(b) the spouse of the child, where the child is married. 1970 (1st) c. 2, s. 70. Spouse

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. Director's consent

(2) Notwithstanding any other provision of this Ordinance, where the consent of the Director is required pursuant to subsection (1), no other consent to the adoption is required. 1970 (1st) c. 2, s. 71.

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 the consents, if having regard to all the circumstances of the case he is satisfied that dispensing with the 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. 1970 (1st) c. 2, s. 72. Notice

73. (1) 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. 1970 (1st) c. 2, s. 73. Revocation of consent

74. (1) 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. 1970 (1st) c. 2, s. 74. 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 Affidavit of support

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.

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

Extra-territorial consents (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.

(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. 1970 (1st) c. 2, s. 75.

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. 1970 (1st) c. 2, s. 76.

State application **77.** (1) 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. 1970 (1st) c. 2, s. 77.

Consideration of application by judge **78.** (1) 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. 1970 (1st) c. 2, s. 78.

79. (1) Where the judge is satisfied that

Adoption order

- (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. 1970 (1st) c. 2, s. 79.

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

Surname

(2) In making an adoption order, the judge may, in 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. 1970 (1st) c. 2, s. 80.

Given name

81. (1) Where an adopted child was born out of wedlock, that fact shall not appear in the adoption order. 1970 (1st) c. 2, s. 81.

Child out of wedlock

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 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. 1970 (1st) c. 2, s. 82.

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

Notice

- (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*. 1970 (1st) c. 2, s. 83.

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. 1970 (1st) c. 2, s. 84.

85. (1) 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. 1970 (1st) c. 2, s. 85.

86. (1) 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. 1970 (1st) c. 2, s. 85.

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. 1970 (1st) c. 2, s. 87.

APPEALS

88. (1) An appeal lies to the Court of Appeal from an order made under this Part. 1970 (1st) c. 2, s. 88. Appeal

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. 1970 (1st) c. 2, s. 89 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 five hundred dollars 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 of maintenance of an adopted child. 1970 (1st) c. 2, s. 90. Agreement by Director

PART V

GENERAL PROVISIONS

JURISDICTION

Jurisdiction **91.** (1) 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. 1970 (1st) c. 2, s. 91.

Effect of order **92.** (1) 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. 1970 (1st) c. 2, s. 92.

Justice unable to act **93.** (1) 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. 1970 (1st) c. 2, s. 93.

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. 1970 (1st) c. 2, s. 94.

REGULATIONS

- 95. (1)** The Commissioner may make 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. 1970 (1st) c. 2, s. 95.

Regulations

NOTE: Part IV of this Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER C-5

CHIROPRACTIC ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Chiropractic Ordinance*. R.O. 1958, c. 15, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance

Definitions

“chiropractic” means the method of treating human beings for disease and the causes of disease by means of adjustment by hand and the articulations of the spinal column and other adjustments by hand incidental thereto; “chiropractic”

“chiropractor” means a person who is entitled to practise chiropractic in the Territory under this Ordinance; “chiropractor”

“licence” means a valid and subsisting licence issued under this Ordinance to practise chiropractic in the Territory; “licence”

“register” means the Chiropractic Register referred to in section 3. R.O. 1958, c. 15, s. 2. “register”

REGISTRATION AND LICENSING

3. (1) The Territorial Secretary shall keep a register called the Chiropractic Register and shall enter therein the names, addresses and qualifications of all persons who are, pursuant to this Ordinance, entitled to be registered in the register and he may issue licences to such persons. R.O. 1958, c. 15, s. 3. Registration and licensing

4. (1) A person who

Qualifications for licence

- (a) on the 17th day of November, 1955, was entitled by law to practise chiropractic in the Territory,
- (b) produces to the Territorial Secretary a certificate under the hand of the proper authority showing that he is licensed under a chiropractic Act of any provinces, and satisfies the Territorial Secretary that he is the person named in the certificate and that he is in good standing in that province, or
- (c) produces to the Territorial Secretary a certificate under the hand of the proper authority showing that he has been admitted to practise as a chiropractor in

either of the States of Oregon or Washington and satisfies the Territorial Secretary that he is the person named in the certificate and that he is in good standing in the state in which he is so entitled to practise, and who pays the fees required by this Ordinance, is entitled to be registered in the register.

Registration fee (2) Every person who applies for registration in the register shall, with his application for registration, send to the Territorial Secretary the prescribed fee. R.O. 1958, c. 15, s. 4; 1971 (1st) c. 20, s. 5(1).

Licence fee 5. (1) Every person who is registered in the register shall send to the Territorial Secretary at the time his name is registered in the register and subsequently on or before the thirty-first day of March in each year, the prescribed annual licence fee. R.O. 1958, c. 15, s. 5; 1971 (1st) c. 20, s. 5(2).

Validity of licence 6. (1) No licence is valid unless
 (a) the licence fee in respect of the year for which the licence is issued has been paid, and
 (b) the holder of the licence has been registered pursuant to section 3. R.O. 1958, c. 15, s. 6.

Expiration of licence 7. (1) A licence expires on the 31st day of March next following the day upon which it came into force. R.O. 1958, c. 15, s. 7.

PRACTICE OF CHIROPRACTIC

Practice limited to holders of licences 8. (1) No person shall practise chiropractic or recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising chiropractic unless he holds a licence under this Ordinance at the time the services are rendered or material or appliances are provided. R.O. 1958, c. 15, s. 8.

Licensee's right to practise and to recover fees 9. (1) A person who holds a licence is entitled to practise chiropractic and to bring an action before a judge for the recovery of reasonable charges for professional aid, advice and visits and the costs of any materials or appliances supplied by him to his patients. R.O. 1958, c. 15, s. 9.

Limitations of actions for malpractice 10. (1) No chiropractor is liable to an action for negligence or malpractice by reason of professional services requested or rendered unless the action is commenced within one year from the day when, in the matter complained of, the professional services terminated. R.O. 1958, c. 15, s. 10.

11. (1) A chiropractor may in connection with his practice use X-ray shadow photographs of the human spinal column, but no such photographs shall be taken except under the supervision of a medical practitioner under the *Medical Profession Ordinance*. R.O. 1958, c. 15, s. 11.

Use of X-ray
photographs

OFFENCES AND PENALTIES

12. (1) A person who is not the holder of a licence under this Ordinance and who, in the Territory,

Offences respect-
ing unlicensed
practice

- (a) practises chiropractic;
- (b) appends to his name the title of chiropractor or any word indicative of any such title or used in substitution or abbreviation thereof;
- (c) holds himself out in any way to be a duly qualified chiropractor; or
- (d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as a chiropractor,

is guilty of an offence.

(2) A chiropractor who

- (a) prescribes or administers drugs or medicinal preparations;
- (b) treats venereal disease or any other communicable disease;
- (c) performs any surgical operation;
- (d) practises obstetrics or any branch of medicine or osteopathy;
- (e) uses or directs or prescribes the use of anaesthetics for any purpose;
- (f) uses any method other than chiropractic in the treatment of disease; or
- (g) takes X-ray photographs without supervision by a medical practitioner;

is guilty of an offence.

(3) A person who commits an offence against this Ordinance is liable on 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. R.O. 1958, c. 15, s. 12.

Penalty

13. (1) In the case of an offence under this Ordinance, a complaint shall be made, or an information laid, within one year from the time when the matter of the complaint or information arose. R.O. 1958, c. 15, s. 13.

Time for
prosecution

Onus of proof **14.** (1) In a prosecution for an offence under this Ordinance, the onus of proof that the person against whom the charge is laid is the holder of a licence is upon the person against whom the charge is laid. R.O. 1958, c. 15, s. 14.

INVESTIGATION AND REMOVAL

Removal for non-payment of fees **15.** (1) Subject to subsection (2), the Territorial Secretary shall remove from the register the name of a person registered therein who fails to comply with the provisions of this Ordinance with respect to licence fees and the licence issued to that person is invalid until such time as he is again registered in the register.

Extension of time (2) Where reasons satisfactory to the Commissioner are advanced to him as to why the licence fee has not been paid at the required time or within the required period, the Commissioner may grant an extension for payment of fees before having the name of the person on whose behalf they are paid struck off the register, but shall in no case grant an extension of time exceeding sixty days.

Reinstatement (3) A person whose name is removed from the register pursuant to subsection (1) is entitled to have his name restored to the register if he pays a fee of ten dollars in addition to the fee in respect of which his name was removed from the register. R.O. 1958, c. 15, s. 15.

Board of Inquiry **16.** (1) The Commissioner may appoint two or more persons to act as a Board of Inquiry for the purpose of investigating any complaint made against a chiropractor with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a chiropractor.

Powers of Board (2) The Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power

- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of;
- (b) to swear and examine all such persons under oath;
- (c) to compel the production of documents; and
- (d) to do all things necessary to provide a full and proper inquiry.

Security for costs (3) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the Board, as security for the costs of the inquiry

and to the person complained against, a sum not exceeding five hundred dollars.

(4) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Secretary out of the deposit for security mentioned in subsection (3) such portion of the costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining the deposit or balance thereof shall be returned to the person who deposited it.

Frivolous and
vexatious
complaint

(5) A majority of the members of the Board of Inquiry is a quorum.

Quorum

(6) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where it finds that the person complained against is guilty of contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be

Findings and
recommendations

- (a) reprimanded;
- (b) fined in an amount named by the Board, not to exceed five hundred dollars;
- (c) struck off the register and his licence cancelled; or
- (d) struck off the register and his licence suspended for a definite period named by the Board.

(7) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (6), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report.

Notification to
the person
complained
against

(8) Every person who

Offences

- (a) fails, without valid excuse, to attend an inquiry as required under this section;
- (b) fails to produce any document, book or paper in his possession or under his control, as required under this section; or
- (c) at an inquiry under this section
 - (i) refuses to be sworn or to affirm, or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry,

is guilty of an offence. R.O. 1958, c. 15, s. 16.

Appeal to judge **17.** (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a judge.

Powers of judge (2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry. R.O. 1958, c. 15, s. 17.

Commissioner powers on recommendation by Board **18.** (1) Where a chiropractor has been found guilty by a Board of Inquiry of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and

- (a) in the case of a reprimand, reprimand the chiropractor in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the chiropractor, which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the practitioner struck off the register and cancel his licence; and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the chiropractor struck off the register and suspend his licence for such time as the Board has recommended.

Commissioner to enforce order of judge (2) Where a judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1). R.O. 1958, c. 15, s. 18.

Application for reinstatement **19.** (1) A chiropractor whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 18 may,

- (a) where he had not taken any appeal from the finding within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register, or
- (b) where he had appealed from the finding within one year from the date of an order under subsection 17(2)

apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

(2) The Commissioner or judge may, upon application under subsection (1), order the Territorial Secretary to reinstate a chiropractor on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the Commissioner or judge may decide.

Order by
Commissioner or
judge

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) reinstate a chiropractor on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs.
R.O. 1958, c. 15, s. 19.

Territorial
Secretary to
reinstate

20. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20, s. 5(3).

CHAPTER C-6

CHOSSES IN ACTION ORDINANCE

1. This Ordinance may be cited as the *Choses in Action Ordinance*. R.O. 1958, c. 16, s. 1. Short title

2. (1) Every debt and every chose in action arising out of contract is assignable at law by any form of writing containing apt words in that behalf, but subject to such conditions and restrictions with respect to the right of transfer as may appertain to the original debt or as may be connected with or be contained in the original contract; and the assignee thereof may bring an action thereon in his own name as the party might to whom the debt was originally owing or to whom the right of action originally accrued, or he may proceed in respect of the same as though this Ordinance had not been passed. Assignment

(2) The word "assignee" in this section includes a person who is entitled, by any first or subsequent assignment or transfer or any derivative title, to a debt or chose in action and possessing at the time when the action is instituted the right to receive the subject or proceeds thereof and to give effectual discharge therefor. R.O. 1958, c. 16, s. 2. "assignee"

3. (1) The plaintiff in an action for the recovery of the subject of an assignment made in conformity with section 2 shall in his statement of claim set forth briefly the chain of assignments showing how he claims title, but in all other respects the proceedings may be the same as if the action were brought in the name of the original creditor or of the person to whom the cause of action accrued. R.O. 1958, c. 16, s. 3. Action for debt on assignment

4. (1) An assignment of a debt or chose in action arising out of contract and not assignable by delivery is subject to any defence or set-off in respect of the whole or any part of the debt or chose in action existing at the time of the notice of assignment to the debtor or person sought to be made liable in the same manner and to the same extent as such defence or set-off would be effectual in case there had been no assignment thereof, and such defence or set-off shall apply as between the debtor and any assignee of the debt or chose in action. R.O. 1958, c. 16, s. 4. Equities of debtor against assignor before notice

Assignee's rights
after notice to
debtor

5. (1) Where an assignment is made in conformity with this Ordinance and notice thereof is given to the debtor or person liable in respect of the subject of the assignment, the assignee is entitled to have, hold and enjoy the same free of any claims, defences or equities that may arise subsequent to the notice by any act of the assignor or otherwise. R.O. 1958, c. 16, s. 5.

Securities
transferable by
delivery

6. (1) The bonds of debentures of corporations made payable to bearer or any person named therein or bearer may be transferred by delivery alone and such transfer vests the property in such bonds or debentures in the transferee or in the holder thereof and any such holder may bring any action on or in respect of any such bonds or debentures in his own name. R.O. 1958, c. 16, s. 6.

Negotiable
instruments

7. (1) The provisions of this Ordinance shall not be construed to apply to bills of exchange or promissory notes or instruments that are negotiable or in respect of which the property therein passes by mere delivery. R.O. 1958, c. 16, s. 7.

CHAPTER C-7

**CITIZENSHIP INSTRUCTION AGREEMENT
ORDINANCE**

1. This Ordinance may be cited as the *Citizenship Instruction Agreement Ordinance*. R.O. 1958, c. 17, s. 1. Short title

2. (1) In this Ordinance Definitions

“citizenship instruction” means the teaching of the English or French language and of the elementary facts about Canadian institutions and ways of life to newcomers for the purpose of facilitating their adjustment and integration into the Canadian community and of qualifying them for Canadian citizenship; “citizenship instruction”

“newcomers” means persons, exclusive of young persons in regular attendance at schools, who have been granted permanent admission into Canada but who have not yet acquired Canadian citizenship; “newcomers”

“teaching costs” means the salaries and remuneration paid to teachers, instructors and principals for their contribution to the immediate carrying out of citizenship instruction. R.O. 1958, c. 17, s. 2. “teaching costs”

3. (1) Subject to this Ordinance, the Commissioner may enter into and execute on behalf of the Territory an agreement with the Government of Canada, covering such period from the date of the coming into force of this Ordinance as may be agreed upon, providing for the payment by the Government of Canada for each fiscal year during the term of such agreement to the Government of the Territory for assistance in carrying out citizenship instruction, a contribution towards the teaching costs of citizenship instruction, whether these costs have been borne directly by the Government of the Territory or indirectly through grants to local school boards. R.O. 1958, c. 17, s. 3. Commissioner may execute agreement

4. (1) An agreement made under this Ordinance may be varied or amended from time to time by agreement between the Government of Canada and the Commissioner. R.O. 1958, c. 17, s. 4. Variation of amendment

Powers of
Commissioner

5. (1) The Commissioner is hereby authorized to do all lawful acts and exercise all lawful powers necessary for the purpose of implementing the obligations assumed by the Government of the Territory under the agreement entered into pursuant to this Ordinance. R.O. 1958, c. 17, s. 5.

CHAPTER C-8

CIVIL EMERGENCY MEASURES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Civil Emergency Measures Ordinance*. 1966 (2nd) c. 3, s. 1. Short title

INTERPRETATION

- 2.** (1) In this Ordinance Definition
- “civil emergency plan” means a plan approved by the Commissioner pursuant to section 3 for dealing with any emergency ; “civil emergency plan”
- “emergency” means a peacetime disaster or a war emergency ; “emergency”
- “municipality” means a town or village to which the *Municipal Ordinance* applies ; “municipality”
- “peacetime disaster” means a disaster, real or apprehended, resulting from fire, explosion, flood, earthquake, landslide, weather, epidemic, shipping accident, mine accident, transportation accident, electrical power failure, nuclear accident or any other disaster not attributable to enemy attack, sabotage or other hostile action whereby injury or loss is or may be caused to persons or property in the Territory ; “peacetime disaster”
- “war emergency” means the state existing as a result of a proclamation issued by Her Majesty or under authority of the Governor in Council that war, invasion or insurrection, real or apprehended, exists. 1966 (2nd) c. 3, s. 2. “war emergency”

CIVIL EMERGENCY PLANNING OFFICER

3. (1) The Commissioner shall appoint a Civil Emergency Planning Officer. Civil Emergency

(2) It shall be the duty of the Civil Emergency Planning Officer Officer duties

- (a) to formulate and recommend to the Commissioner plans for dealing with any peacetime disaster or war emergency ; and

- (b) to undertake such other duties as the Commissioner may assign to him. 1966 (2nd) c. 3, s. 3; 1969 (2nd) c. 4, s. 1.

Staff

- 4. (1) The Commissioner may appoint or designate officers, technicians and employees necessary to assist the Civil Emergency Planning Officer in carrying out his duties. 1966 (2nd) c. 3, s. 4; 1969 (2nd) c. 4, s. 2.

CIVIL EMERGENCY PLAN

Commissioner may enter into agreements etc.

- 5. (1) For the purposes of carrying out any civil emergency plan, the Commissioner may

- (a) enter into agreements with the Government of Canada, the government of any province, a municipality or any person;
- (b) in conjunction with the Government of Canada, the government of any province, a municipality or any person, prepare plans for the meeting of any emergency;
- (c) make surveys of the resources and facilities within the Territory;
- (d) institute training and public information programs; and
- (e) take such other preparatory steps as he considers necessary or advisable to ensure the existence of adequately trained and equipped personnel to meet any emergency including the complete or partial mobilization of civil emergency organizations, the testing of the sufficiency of any civil emergency plan and the efficiency of the organization relating to any such plan. 1966 (2nd) c. 3, s. 5.

Municipal by-laws

- 6. (1) For the purpose of dealing with an emergency, a municipality may by by-law

- (a) establish and assign the responsibilities of municipal officers and employees relating to any emergency;
- (b) appoint a municipal emergency measures co-ordinator and the officers and employees necessary to assist him; and
- (c) with the approval of the Commissioner,
 - (i) adopt an emergency plan which may be co-ordinated with any plan of the Territory or of any other municipality, and
 - (ii) enter into an agreement with any other municipality for a common emergency organization, plan or program. 1966 (2nd) c. 3, s. 6; 1969 (2nd) c. 4, s. 3

STATE OF EMERGENCY

7. (1) Where the Commissioner is informed that a war emergency exists or is of the opinion that a peacetime disaster exists, he may declare that a state of emergency exists in the Territory or in any part thereof.

Declaration of state of emergency

(2) Unless extended by declaration of the Commissioner, a state of emergency declared under subsection (1) shall cease to exist ninety days from the date of such declaration. 1966 (2nd) c. 3, s. 7.

Term of state of emergency

8. (1) Where the Commissioner declares that a state of emergency exists, he may

Putting emergency plan into operation

- (a) put into operation in the area in which the state of emergency is declared to exist any civil emergency plan; and
- (b) authorize any municipality in the area to put into operation any emergency plan that, with the approval of the Commissioner, it has adopted. 1966 (2nd) c. 3, s. 8.

9. (1) Notwithstanding any other Ordinance, where the Commissioner has declared that a state of emergency exists, he may do all things he considers advisable for the purpose of dealing with the emergency and, without restricting the generality of the foregoing, he may

Commissioner may act in state of emergency

- (a) do such acts as he deems necessary for
 - (i) the protection of persons and property
 - (ii) maintaining, clearing and controlling the use of roads and streets,
 - (iii) requisitioning or otherwise obtaining and distributing accommodation, food and clothing and providing other welfare services,
 - (iv) providing and maintaining water supplies, electrical power and sewage disposal,
 - (v) assisting in the enforcement of the law,
 - (vi) fighting or preventing fire, and
 - (vii) protecting the health, safety and welfare of the inhabitants of the area;
- (b) make regulations he considers proper to put into effect any civil emergency plan; and
- (c) require any municipality to provide assistance as he deems necessary during the emergency and authorize the payment of the cost of such assistance out of the revenues of the Territory. 1966 (2nd) c. 3, s. 9.

GENERAL

10. (1) Where the Commissioner has declared that a state of emergency exists,

- (a) the Commissioner, a municipality or any person acting under the direction or authorization of the Commissioner or under any by-law made pursuant to section 6, and
- (b) any person who does any act in carrying out a civil emergency plan,

shall not be liable for any damage caused by or arising out of such actions. 1966 (2nd) c. 3, s. 10.

Offence

11. (1) Where the Commissioner has declared that a state of emergency exists, any person who fails to obey any order given by any person described in section 10 in the performance of any action taken pursuant to this Ordinance, the regulations or a civil emergency plan in the area in which the emergency exists, is guilty of an offence and is liable on 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. 1966 (2nd) c. 3, s. 11.

Employee deemed to have been in his accustomed employment

12. (1) Every person who is absent from his accustomed employment on duty authorized by the Commissioner or by a council of a municipality during a state of emergency shall, while so absent, for all purposes relative to retention of employment, seniority rights and superannuation benefits, be deemed to have been in his accustomed employment during the period of his absence. 1966 (2nd) c. 3, s. 12.

Provisions of this Ordinance prevail

13. (1) In the event of any inconsistency between the provisions of this Ordinance or any civil emergency plan approved by the Commissioner and the operation of any other Ordinance, the provisions of this Ordinance shall prevail to the extent of the inconsistency. 1966 (2nd) c. 3, s. 13.

Regulations

14. (1) The Commissioner may make regulations as he deems necessary for carrying out the purposes and provisions of this Ordinance. 1966 (2nd) c. 3, s. 14.

CHAPTER C-9

COLLECTION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Collection Ordinance*. R.O. 1958, c. 18, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance

Definitions

“Clerk” means the Clerk of the Court ;

“Clerk”

“examination” means an examination under this Ordinance ;

“examination”

“judgment” means any adjudication or order directing the payment of money, whether debt, damages or costs in any court in the Territory ;

“judgment”

“judgment creditor” means the person entitled to the amount due on a judgment; and

“judgment creditor”

“judgment debtor” means the person liable to pay the amount due on the judgment. R.O. 1958, c. 18, s. 2.

“judgment debtor”

COLLECTION

3. (1) Notwithstanding any Ordinance or law in the Territory, no person shall be arrested or committed to prison on execution or final process in a civil action except as provided in this Ordinance. R.O. 1958, c. 18, s. 3.

No arrest on execution except under Ordinance

4. (1) Subject to subsection (2), a judgment creditor may, either before or after execution, apply to the Clerk to have a judgment debtor examined upon oath and upon such application the Clerk shall issue a judgment summons in Form A, Schedule I requiring the judgment debtor to appear at the time and place mentioned in the summons to be examined under oath touching his estate and effects, and as to

Judgment summons

- (a) any and what property he has which by law is liable to be taken in execution on the judgment;
- (b) the property and means he had when the debt or liability was incurred which was the subject of the action in which judgment has been obtained;

- (c) the property and means he still has of discharging the judgment;
- (d) the disposal he has made of any property since contracting the debt or incurring the liability; and
- (e) any and what debts are owing to him.

No judgment summons unless execution returned *nulla bona*

(2) Where a judgment for a sum exceeding one hundred dollars is obtained in the Court, no judgment summons shall be issued before an execution against the goods and chattels of the judgment debtor has been returned *nulla bona*. R.O. 1958, c. 18, s. 4.

Service

5. (1) A judgment summons shall be served in the same manner as a writ of summons. R.O. 1958, c. 18, s. 5.

Application for subsequent judgment summons

6. (1) Upon application by a judgment creditor to the Clerk for a second or subsequent judgment summons, the Clerk shall issue such judgment summons upon the judgment creditor's filing an affidavit that the judgment is unsatisfied in whole or in part and

- (a) that the judgment debtor was not examined on the judgment summons that issued immediately previously to the one applied for, or
- (b) that ninety days have elapsed since the judgment debtor was examined in the case in which the judgment summons is being applied for. R.O. 1958, c. 18, s. 6.

Dismissal of judgment summons

7. (1) The judgment debtor may, before being examined, show cause why the judgment summons should be dismissed and upon sufficient cause being shown the judge may dismiss such judgment summons. R.O. 1958, c. 18, s. 7.

Examination to be in chambers

8. (1) Unless the judge otherwise directs the examination shall be held in the judge's chambers. R.O. 1958, c. 18, s. 8.

Judge may examine debtor on oath

9. (1) The judge may at an examination, examine upon oath the judgment debtor and any other witness he thinks requisite touching the matter. R.O. 1958, c. 18, s. 9.

Adjournment of examination

10. (1) The judge may, from time to time, adjourn the examination and he may also, unless the judgment debtor enters into a bond in favour of the judgment creditor with securities to the satisfaction of the judge to attend at the time and place to which such examination is adjourned, commit the judgment debtor to gaol until the time fixed for the adjourned hearing. R.O. 1958, c. 18, s. 10.

11. (1) Where a person summoned to appear at an examination

Penalty for failure to attend and give evidence at examination

- (a) does not appear as required by the summons and fails to show sufficient reason for not appearing, or
- (b) appears but refuses to be sworn or to declare any of the things concerning which he is examined under this Ordinance

the judge may, if he thinks fit, order such person to be committed to a common gaol for a period not exceeding sixty days.

(2) Where it appears to the judge, either on examination or by other evidence, that

Committal of debtor in certain cases

- (a) the debt which forms the subject of the judgment was fraudulently contracted,
- (b) the credit was obtained under false pretences,
- (c) the judgment debtor contracted such debt without having at the time any reasonable expectation of being able to pay it,
- (d) any other fraudulent circumstances have occurred in connection with the contracting of the debt,
- (e) that the judgment debtor has made any fraudulent disposition of any property, or
- (f) that the debt arose out of any tort,

the judge may, if he thinks fit, order the judgment debtor to be committed to a common gaol for a period not exceeding sixty days. R.O. 1958, c. 18, s. 11.

12. (1) Upon the conclusion of an examination, or at any stage thereof with the consent of the parties, the judge may, in his discretion, order the judgment debtor to pay the debt, together with any costs of examination which may be awarded against him forthwith or at a fixed future time, or to pay the same by instalments of such amounts and at such times as the judge may determine.

Judge may order debtor to pay debt immediately by instalment, etc.

(2) Where upon examination it appears to the satisfaction of the judge that the debt was incurred outside the Territory, no order shall be made against the judgment debtor.

No order where debt incurred outside Territory

(3) The costs of and incidental to a judgment summons shall be costs in the cause, unless the judge otherwise directs. R.O. 1958, c. 18, s. 12.

Costs

13. (1) A judge may, at any time after judgment with the consent of the judgment creditor and judgment debtor, make

Judge may make order without examination with consent of parties

an order under section 12 without examination of the judgment debtor. R.O. 1958, c. 18, s. 13.

Debtor may be committed for failure to comply with order

14. (1) Where the judgment debtor fails to comply with an order made under section 12 or section 13, the judgment creditor may upon affidavit of the affidavit or another person on his behalf who has full knowledge of the facts, obtain *ex parte* from the judge an order committing the judgment debtor to a common gaol for a period not exceeding sixty days. R.O. 1958, c. 18, s. 14.

Sheriff to arrest debtor

15. (1) Where an order of commitment has been made under section 14, it shall be delivered to the sheriff and the sheriff or any one authorized by him shall arrest the judgment debtor and convey him to the common gaol and the gaoler or keeper of such common gaol shall receive and keep the judgment debtor until such debtor is discharged pursuant to this Ordinance or otherwise by due course of law.

Time when order of commitment in force

(2) Except where the absence of the debtor from the Territory makes it impossible to execute, no order of commitment shall have any force or effect after the expiration of three months from the date it was made unless it has been duly executed during that period.

Creditor to pay cost of maintenance of debtor

(3) The cost of maintenance of any judgment debtor who is committed to a common gaol under this Ordinance shall be borne by the judgment creditor who shall deposit the amount, not to exceed four dollars and fifty cents per day, with the sheriff before the order of commitment is executed and such cost of maintenance shall be added to the judgment debt. R.O. 1958, c. 18, s. 15.

Committed debtor to be released on satisfying debt

16. (1) Where a judgment debtor imprisoned under this Ordinance has satisfied the judgment debt and a certificate of satisfaction signed by the Clerk is presented to the gaoler or keeper who has him in custody, the gaoler or keeper shall discharge him.

Judge may discharge on sufficient grounds

(2) A judge may, on any ground arising subsequent to an order of commitment that appears to him sufficient, direct that the judgment debtor be discharged from custody. R.O. 1958, c. 18, s. 16.

Imprisonment not to affect other remedies

17. (1) No imprisonment under this Ordinance shall impair the judgment or extinguish the debts or deprive the judgment creditor of any right to take out execution against the judgment debtor. R.O. 1958, c. 18, s. 17.

18. (1) No counsel fee shall be allowed on any judgment summons or a proceeding thereon. R.O. 1958, c. 18, s. 18.

No counsel fee
allowed on
judgment
summons

19. (1) Upon the issuing of a judgment summons the action or proceeding in which the judgment was obtained becomes for the purposes of this Ordinance an action in the Territorial Court, and except as otherwise provided in this Ordinance the practice and procedure and the costs and fees payable in connection therewith shall be those now in force in the Court under the lowest scale of costs and fees. R. O. 1958, c. 18, s. 19.

On issue of
judgment
summons action
becomes action
in Territorial
Court

SCHEDULE I

FORM A

Judgment Summons

(*Style of cause*)
To (*name of debtor*)

WHEREAS it has been made to appear that (*creditor's name*) is entitled to receive from you \$ in respect to a certain judgment (*or order*) of the Court, of which he has been unable to obtain satisfaction.

THEREFORE you are hereby summoned to attend an examination before at the Court House at in the Yukon Territory on day the day of A.D. 19 at the hour of o'clock in the noon there to be dealt with as in the *Collection Ordinance* is provided.

AND TAKE NOTICE that in the event of your failing to attend at such time and place, you may be arrested and committed to the common gaol.

Dated at in the Yukon Territory this day of A.D. 19
Clerk of the Territorial Court

R.O. 1958, c. 18, Sched.

CHAPTER C-10

COMPANIES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Companies Ordinance*. R.O. 1958, c. 19, s. 1. Short title

INTERPRETATION

2. In this Ordinance

Definitions

- “articles” means the articles of association of a company as originally framed or as altered by special resolution, including so far as they apply to the company, the regulations contained in Table A in Schedule I, and including the by-laws of any existing company except by-laws made by the directors; “articles”
- “books and papers” or “books or papers” includes accounts, deeds, writings and documents; “books and papers.” “books or papers”
- “charter” of a company means the statute, ordinance or other law by or under which the company is incorporated, and any amendments thereto applying to such company, whether of Canada, the United Kingdom or any colony or dependency thereof, or of any foreign state or country, the memorandum of association or agreement or deed of settlement of the company, the letters patent or charter of incorporation, and the licence or certificate of registration of the company, as the case may be; “charter”
- “charter and regulations” of a company means the charter of the company and the articles of association, and all resolutions and contracts relating to or affecting the capital and assets of the company; “charter and regulations”
- “company” means a company formed and registered under this Ordinance, or an existing company; “company”
- “company limited by shares” includes a company incorporated under Part V; “company limited by shares”
- “debenture” includes debenture stock; “debenture”
- “director” includes any person occupying the position of director by whatever name called; “director”

"document"	"document" includes summons, notice, order and other legal process and registers ;
"existing company"	"existing company" means a company formed and registered under a former public Ordinance of the Territory ;
"extra-territorial company"	"extra-territorial company" means any duly incorporated company other than a company incorporated under the laws of the Territory ;
"general rules"	"general rules" means general rules made under this Ordinance, and includes forms ;
"memorandum"	"memorandum" means the memorandum of association of a company as originally framed or as altered in pursuance of the provisions of this Ordinance ;
"prescribed"	"prescribed" means prescribed by general rules or by the Commissioner or other lawful authority ;
"prospectus"	"prospectus" means any prospectus, notice, circular, advertisement or other document offering to the public for subscription or purchase any shares or debentures of a company ;
"real estate." "land"	"real estate" or "land" includes all messuages, lands, tenements, hereditaments of any tenure, leaseholds and all immovable property of every kind ;
"Registrar"	"Registrar" means the Registrar of Companies or other officer performing under this Ordinance the duty of registration of companies ;
"share"	"share" means a share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied ;
"shareholder"	"shareholder" means every subscriber to or holder of shares in a company, and includes the personal representatives of such shareholder ;
"subscriber"	"subscriber" means any person who subscribes for shares in the memorandum of association of a company. R.O. 1958, c. 19, s. 2.

PART I

GENERAL

Powers of
commissioner**3. (1)** The Commissioner from time to time may, by order,

- (a) appoint such person or persons as he thinks proper to act as the Registrar or Deputy Registrar of Companies; Appointment of Registrar and Deputy Registrar of Companies
- (b) make and establish such general rules and orders, not inconsistent with this Ordinance as appear necessary or expedient to give full effect to the provisions of this Ordinance or any of them, and for prescribing the course to be adopted in the course of official business under this Ordinance; and Rules
- (c) make such alterations in the tables and forms contained in Schedule I, so that it does not increase the amount of fees payable to the Registrar in the said Schedule, and in the forms in Schedule II, or make such additions to the last-mentioned forms as may be requisite; except that no alteration made by the Commissioner in Table A in Schedule I shall affect any company registered prior to the date of such alteration or repeal, as regards any such company, any portion of that table. R.O. 1958, c. 19, s. 3. Alterations in forms
- 4.** (1) It shall be the duty of the Registrar to enforce compliance with the provisions of this Ordinance or the regulations but such duty shall not affect the right of any other person to compel compliance with the provisions hereof. R.O. 1958, c. 19, s. 4. Registrar's duty to enforce compliance
- 5.** (1) The forms set forth in Schedule II, or forms as near thereto as circumstances admit, shall be used in all matters to which such forms refer. R.O. 1958, c. 19, s. 5. Forms to be used
- 6.** (1) No company shall be incorporated under this Ordinance for the construction and working of railways, or for carrying on the business of banking, insurance, steamboat, canal, telegraph or irrigation companies. R.O. 1958, c. 19, s. 6. Railway and insurance companies not to be incorporated
- 7.** (1) For the purposes of this Ordinance, a company that carries on the business of fire, life, marine or other insurance in common with any other business shall be deemed to be an insurance company. R.O. 1958, c. 19, s. 7. Definition of insurance company
- 8.** (1) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof unless it is registered as a company under this Ordinance, or is formed in pursuance of Prohibition of partnership exceeding a certain number

some other ordinance, or of letters patent. R.O. 1958, c. 19, s. 8.

Issue of bank notes prohibited

9. (1) Nothing in this Ordinance shall be construed as authorizing a company to issue any note payable to the bearer thereof, or any promissory note intended to be circulated as money or as the note of a bank, or to engage in the business of banking. R.O. 1958, c. 19, s. 9.

Ordinance does not apply to certain companies

10. (1) This Ordinance does not apply to a company carrying on the business of insurance only. R.O. 1958, c. 19, s. 10.

PART II

CONSTITUTION AND INCORPORATION

Memorandum of Association

Mode of forming incorporated company

11. (1) Any five or more persons or, where the company to be formed is to be a private company within the meaning of this Ordinance, any two or more persons, associated for any lawful purpose may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Ordinance in respect of registration, form an incorporated company, with or without limited liability, either

- (a) having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Ordinance termed a "company limited by shares");
- (b) having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Ordinance termed a "company limited by guarantee");
- (c) not having any limit on the liability of its members (in this Ordinance termed an "unlimited company"); or
- (d) having the liability of its members specially limited under section 134. R.O. 1958, c. 19, s. 11.

Memorandum of company limited by shares

12. (1) In the case of a company limited by shares, the memorandum shall state

- (a) the name of the company, with "limited", or "ltd." as the last word in its name;
- (b) the place in the Territory in which the registered office of the company is to be situated;

- (c) the objects of the company ;
- (d) the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount ; and
- (e) that the liability of the members is limited. R.O. 1958, c. 19, s. 12 ; 1971 (1st) c. 17, s. 1.

13. (1) In the case of a company limited by guarantee, the memorandum shall state

Memorandum
company limited
by guarantee

- (a) the name of the company, with "limited" or "ltd." as the last word in its name ;
- (b) the place in the Territory in which the registered office of the company is to be situated ;
- (c) the objects of the company ;
- (d) in the case of a company having a share capital, the amount of share capital with which the company proposes to be registered, and the division thereof into shares of a fixed amount ;
- (e) that the liability of the members is limited ; and
- (f) that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for the payment of the debts and liabilities of the company contracted before he ceases to be a member and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributaries among themselves, such amount as may be required, not exceeding a specified amount. R.O. 1958, c. 19, s. 13 ; 1971 (1st) c. 17, s. 2.

14. (1) In the case of an unlimited company, the memorandum shall state

Memorandum of
unlimited
company

- (a) the name of the company ;
- (b) the place in the Territory in which the registered office of the company will be situated ; and
- (c) the objects of the company. R.O. 1958, c. 19, s. 14.

15. (1) In the case of a company limited by shares, a company limited by guarantee and having a share capital, and an unlimited company having a share capital,

Execution of
memorandum

- (a) each subscriber of the memorandum shall write opposite his name the number of shares he takes ; and
- (b) no subscriber may take less than one share.

(2) The memorandum shall be signed by each subscriber in the presence of at least one witness, who shall attest the signature. R.O. 1958, c. 19, s. 15.

Restriction on alteration of memorandum

16. (1) A company may not alter the conditions contained in its memorandum, except in the cases and in the manner and to the extent for which express provision is made in this Ordinance. R.O. 1958, c. 19, s. 16.

Name of company and change of name

17. (1) A company or society may not be incorporated nor may an extra-territorial company be licensed or registered by a name identical with that by which a company or society or firm in existence is carrying on business or has been incorporated, licensed, or registered, or so nearly resembling that name as in the opinion of the Registrar to be calculated to deceive, or by a name of which the Registrar shall for any other reason disapprove, except where such company or society or firm in existence is in the course of being dissolved or has ceased to carry on business, and signifies its consent by resolution duly passed and filed by the Registrar.

(2) Any company or society that has, through inadvertence or otherwise, become incorporated, licensed, or registered by a name identical with that by which a company or society or firm has been incorporated, licensed, or registered, or has been carrying on business prior to the incorporation, licensing, or registration of such first-mentioned company or society, or so nearly resembling that name as to be calculated to deceive, shall change its name in manner provided by this section.

(3) Any company may at any time, by special resolution and with the approval of the Registrar signified in writing, change its name.

(4) The company shall, in the last-mentioned case, publish a notice once in the *Yukon Gazette* and in some newspaper or newspapers published or circulated in the place in which the registered office of the company is situated, and in the place in which the operations of the company are carried on, of the intention to apply for the change of name, and shall state the name proposed to be adopted.

(5) Where a company changes its name, the Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate that such company has changed its name; and in such certificate the Registrar shall state the name by which such company shall as from the date of such certificate be known.

(6) The change of name shall not affect any rights or obligations of the company, or render defective any legal proceedings by or against the company, 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.

(7) The Registrar may, on request, reserve any name which may be taken by an intended company, or by a company as a change of name, or the name of any extra-territorial company intending to apply for a licence or registration, for a period of fourteen days or any extended period he may allow, not exceeding in the whole thirty days. R.O. 1958, c. 19, s. 17.

18. (1) Subject to this section, a company may, by special resolution, alter the provisions of its memorandum with respect to the objects of the company, so far as may be required to enable it

Alteration of
objects of
company

- (a) to carry on its business more economically or more efficiently;
- (b) to attain its main purpose by new or improved means;
- (c) to enlarge or change the local area of its operations;
- (d) to carry on some business which, under existing circumstances, may conveniently or advantageously be combined with the business of the company; or
- (e) to restrict or abandon any of the objects specified in the memorandum.

(2) The alteration shall not take effect until and except in so far as it is confirmed on petition by the Court.

(3) Before confirming the alteration, the Court shall be satisfied

- (a) that sufficient notice has been given to every holder of debentures of the company, and to any persons or class of persons whose interests will, in the opinion of the Court, be affected by the alteration; and
- (b) that, with respect to every creditor who, in the opinion of the Court, is entitled to object, and who signifies his objection in manner directed by the Court, either his consent to the alteration has been obtained or his debt or claim has been discharged or has determined, or has been secured to the satisfaction of the Court;

except that the Court may, in the case of any person or class, for special reasons, dispense with the notice required by this section.

(4) The Court may make an order confirming the alteration either wholly or in part, and on such terms and conditions as it thinks fit, and may make such order as to costs as it thinks proper.

(5) The Court shall, in exercising its discretion under this section, have regard to the rights and interests of the members of the company or of any class of them, as well as to the rights and interests of the creditors, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement, subject to the condition that no part of the capital of the company may be expended in any such purchase.

(6) An office copy of the order confirming the alteration, together with a copy of the memorandum as altered, shall, within fifteen days from the date of the order, be delivered by the company to the Registrar, and he shall register and certify the same, and the certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to the alteration and the confirmation thereof have been complied with, and the memorandum so altered shall be the memorandum of the company; the Court may by order at any time extend the time for the delivery of documents to the Registrar under this section for such period as the Court may think proper.

(7) The Registrar shall cause the certificate, together with a statement of the objects of the company, as altered, to be published at the expense of the company for four weeks in the *Yukon Gazette*.

(8) Where a company makes default in delivering to the Registrar any document required by this section to be delivered to him, the company is liable to a fine not exceeding fifty dollars for every day during which it is in default. R.O. 1958, c. 19, s. 18.

Articles of Association

Registration of
articles

19. (1) There may, in the case of a company limited by shares, and there shall, in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association signed by the subscribers to the memorandum and prescribing regulations for the company.

(2) A company may by its articles of association adopt all or any of the regulations contained in Table A in Schedule I.

(3) In the case of an unlimited company or a company limited by guarantee, the articles, if the company has a share capital, shall state the amount of share capital with which the company proposes to be registered.

(4) In the case of an unlimited company or a company limited by guarantee, if the company has not a share capital, the articles shall state the number of members with which the company proposes to be registered, for the purpose of enabling the Registrar to determine the fees payable on registration. R.O. 1958, c. 19, s. 19.

20. (1) In the case of a company limited by shares and registered after the 1st day of May, 1914, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations in Table A in Schedule I, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles. R.O. 1958, c. 19, s. 20.

Application of Table A

21. (1) Articles shall

- (a) be printed or typewritten ;
- (b) be divided into paragraphs numbered consecutively ; and
- (c) if registered with the memorandum, be signed by each subscriber of the memorandum of association in the presence of at least one witness, who must attest the signature. R.O. 1958, c. 19, s. 21.

Form and signature of articles

22. (1) Subject to this Ordinance and the conditions contained in its memorandum, a company may by special resolution alter or add to its articles, and any alteration or addition so made shall be as valid as if originally contained in the articles, and be subject in like manner to alteration by special resolution.

Alteration of articles by special resolution

(2) The power of altering articles under this section shall, in the case of an unlimited company, extend to altering any regulations relating to the amount of capital or its distribution into shares, notwithstanding that those regulations are contained in the memorandum. R.O. 1958, c. 19, s. 22.

General Provisions

23. (1) The memorandum and articles shall, when registered, bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member and contained covenants on the part

Effect of memorandum and articles

of each member, his heirs, executors and administrators, to observe all the provisions of the memorandum and of the articles, subject to this Ordinance.

(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company of the nature of a specialty debt. R.O. 1958, c. 19, s. 23.

Registration of memorandum and articles

24. (1) The memorandum and the articles, if any, shall be delivered to the Registrar, and he shall retain and register them. R.O. 1958, c. 19, s. 24.

Contents of certificate of registration

25. (1) On the registration of the memorandum of a company the Registrar shall issue a certificate under his seal of office, showing

- (a) that the company is incorporated ;
- (b) the amount of its capital, if any ;
- (c) the number of shares into which it is divided ;
- (d) in the case of a limited company, that the company is limited ;
- (e) in the case of a mining company incorporated with non-personal liability, that the liability of the company and the shareholders therein is specially limited under Part V : and
- (f) the place where the registered office of the company is to be situate.

(2) From the date of incorporation mentioned in the certificate of incorporation the subscribers of the memorandum together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, with power to hold lands, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Ordinance.

(3) The Registrar shall, at the cost of the parties applying for registration of a memorandum of association, publish the certificate of incorporation and a statement showing the objects for which the company named in the certificate has been incorporated, once in the *Yukon Gazette* or in a newspaper published in the Territory at or nearest the place that is to be the chief place of business of the company. R.O. 1958, c. 19, s. 25.

26. (1) A certificate of incorporation given by the Registrar in respect of any company shall be conclusive evidence that all the requirements of this Ordinance in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorized to be registered and duly registered under this Ordinance.

Conclusiveness
of certificate of
incorporation

(2) A statutory declaration by a solicitor engaged in the formation of the company, or by a person named in the articles as a director or secretary of the company, of compliance with all or any of the said requirements shall be produced to the Registrar, and the Registrar may accept such a declaration as sufficient evidence of compliance. R.O. 1958, c. 19, s. 26.

27. (1) Every company shall send to every member, at his request, and on payment of two dollars or such less sum as the company may prescribe, a copy of the memorandum and of the articles, if any.

Copies of
memorandum
and articles to be
given to mem-
bers

(2) Where a company makes default in complying with the requirements of this section, it is liable for each offence to a fine not exceeding five dollars. R.O. 1958, c. 19, s. 27.

20. (1) In the case of a company limited by guarantee and not having a share capital, and registered after the 1st day of May, 1914, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.

Provisions as to
companies
limited by
guarantee

(2) For the purposes of this Ordinance relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles or in any resolution of any company limited by guarantee and registered on or after the 1st day of May, 1914, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby. R.O. 1958, c. 19, s. 28.

PART III

DISTRIBUTION AND REDUCTION OF SHARE CAPITAL, REGISTRATION OF UNLIMITED COMPANY AS LIMITED, AND UNLIMITED LIABILITY OF DIRECTORS

Distribution of Share Capital

Nature of shares **29.** (1) The shares or other interest of any member in a company shall be personal estate, transferable in the manner provided by the articles of the company, and shall not be of the nature of real estate.

Numbering shares (2) Each share in a company having a share capital shall be distinguished by its appropriate number. R.O. 1958, c. 19, s. 29.

Certificate of shares or stock as evidence of title **30.** (1) A certificate, under the common seal of the company, specifying any shares or stock held by any member is prima facie evidence of the title of the member to the shares or stock. R.O. 1958, c. 19, s. 30.

Definition of member **31.** (1) The subscribers of the memorandum of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members.

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company. R.O. 1958, c. 19, s. 31.

Register of members **32.** (1) Every company shall keep in one or more books a register of its members, and shall enter therein the following particulars;

- (a) the names and addresses and the occupations, if any, of the members, and, in the case of a company having a share capital, a statement of the shares held by each member, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each member;
- (b) the date at which each person was entered in the register as a member; and
- (c) the date at which any person ceased to be a member.

(2) Where a company fails to comply with this section it is liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully

authorizes or permits the default is liable to the like penalty. R.O. 1958, c. 19, s. 32.

33. (1) Every company having a share capital shall, on or before the first day of March in every year, make a list of all persons who, on the fourteenth day after the first or only ordinary general meeting held during the twelve months immediately preceding the said first day of March, are members of the company, and of all persons who have ceased to be members since the date of the last return or, in the case of the first return, of the incorporation of the company.

Annual list of
members

(2) The list shall state the names, addresses and occupations of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return, or in the case of the first return, of the incorporation of the company, by persons who are still members and have ceased to be members respectively, and the dates of registration of the transfers, and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars;

- (a) the amount of the share capital of the company, and the number of the shares into which it is divided;
- (b) the number of shares taken from the commencement of the company up to the date of the return;
- (c) the amount called up on each share;
- (d) the total amount of calls received;
- (e) the total amount of calls unpaid;
- (f) the total amount of the sums, if any, paid by way of commission in respect of any shares or debentures, or allowed by way of discount in respect of any debentures, since the date of the last return;
- (g) the total number of shares forfeited;
- (h) the total amount of shares or stock for which share warrants are outstanding at the date of the return;
- (i) the total amount of share warrants issued and surrendered respectively since the date of the last return;
- (j) the number of shares or amount of stock comprised in each share warrant;
- (k) the names and addresses of the persons who at the date of the return are the directors of the company or occupy the position of directors, by whatever name called; and
- (l) the total amount of debt due from the company in respect of all mortgages and charges that are required

to be registered with the Registrar under this Ordinance.

(3) The summary shall also, except where the company is a private company, include a statement, made up to such date as may be specified in the statement, in the form of a balance sheet, audited and signed by the company's auditors and containing a summary of its share capital, its liabilities and its assets, giving such particulars as will disclose the general nature of those liabilities and assets, and how the values of the fixed assets have been arrived at, but the balance sheet need not include a statement of profit and loss.

Return of list and summary to Registrar

(4) The above list and summary shall be contained in a separate part of the register of members, be completed and a copy thereof signed and authenticated by the manager, the secretary or by some other officer of the company, and be forwarded to the Registrar on or before the first day of March.

(5) Where a company makes default in complying with the requirements of this section it is liable to a fine not exceeding twenty-five dollars for every day during which the default continues, and every director and manager of the company who knowingly and wilfully authorizes or permits the default is liable to the like penalty.

(6) Every extra-territorial registered company shall, on or before the first day of March, file with the Registrar a statement setting forth all the information with reference to such company required by paragraph (2)(k) and (2)(l) and by subsection (3), and such statement shall be certified by the auditors and by the president, vice-president, secretary or other officer of such company; but, except as aforesaid, this section shall not apply to an extra-territorial company. R.O. 1958, c. 19, s. 33.

Trusts not to be entered on register

34. (1) No notice of any trust, expressed, implied or constructive, shall be entered on the register or be receivable by the Registrar in the case of companies registered pursuant to this Ordinance. R.O. 1958, c. 19, s. 34.

Registration of transfer at request of transferor

35. (1) On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee. R.O. 1958, c. 19, s. 35.

Transfer by personal representative

36. (1) A transfer of the share or other interest of a deceased member of a company made by his personal

representative shall, although the personal representative is not himself a member, be as valid as if he had been a member at the time of the execution of the instrument of transfer. R.O. 1958, c. 19, s. 36.

37. (1) Every executor, administrator, guardian or trustee shall represent the shares or stock in his hands at all meetings of the company, and may vote accordingly as a shareholder; every person who pledges his stock may nevertheless represent the same at all such meetings, and may vote accordingly as a shareholder. R.O. 1958, c. 19, s. 37.

Executors and
pledgers voting

38. (1) No person holding shares, stock or other interest in the company as executor, administrator, guardian or trustee shall be personally subject to liability as a shareholder; but the estates and funds in the hands of such person shall be liable in like manner and to the same extent as the testator or intestate or the minor, ward or person interested in the trust fund would be if living and competent to act and holding such shares, stock or other interest in his own name. R.O. 1958, c. 19, s. 38.

Trustees, etc.

39. (1) No person holding shares, stock or other interest as collateral security shall be personally subject to liability as a shareholder; but the person pledging such shares, stock or other interest as such collateral security shall be considered as holding the same, and shall be liable as a shareholder in respect thereof. R.O. 1958, c. 19, s. 39.

Non-personal
liability of
mortgagee or
pledgee of shares

40. (1) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company, and, except when closed under the provisions of this Ordinance, shall during business hours, subject to such reasonable restrictions as the company in general meeting may impose so that not less than two hours in each day be allowed for inspection, be open to the inspection of any member gratis, and to the inspection of any other person on payment of twenty-five cents or such less sum as the company may prescribe, for each inspection.

Inspection of
register of
members

(2) Any member or other person may require a copy of the register, or of any part thereof, or of the list and summary required by this Ordinance, or any part thereof, on payment of twenty-five cents or such less sum as the company may prescribe, for every hundred words or fractional part thereof required to be copied.

(3) Where any inspection or copy required under this section is refused, the company is liable for each refusal to a fine

not exceeding ten dollars, and to a further fine not exceeding ten dollars for every day during which the refusal continues, and every director and manager of the company who knowingly authorizes or permits the refusal is liable to the like penalty, and a judge of the Territorial Court may by order compel an immediate inspection of the register. R.O. 1958, c. 19, s. 40.

Power to close
register

41. (1) A company may, on giving notice by advertisement in some newspaper circulating in the place in which the registered office of the company is situate, close the register of members for any time or times not exceeding in the whole thirty days in each year. R.O. 1958, c. 19, s. 41.

Power of Court
to rectify register

42. (1) If,

- (a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company ; or
- (b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the company, or the company, may apply to the Court for rectification of the register.

(2) The application may be made to a judge sitting in Chambers, and the Court may either refuse the application or direct rectification of the register and payment by the company of any damages sustained by any party aggrieved.

(3) On any application under this section, the Court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand; and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) Where a company is required by this Ordinance to send a list of its members to the Registrar, the Court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar. R.O. 1958, c. 19, s. 42.

Register to be
evidence

43. (1) The register of members is *prima facie* evidence of any matter by this Ordinance directed or authorized to be inserted therein. R.O. 1958, c. 19, s. 43.

Share Warrants

44. (1) A company limited by shares, if so authorized by its articles, may, with respect to any fully paid-up shares, or to stock, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares or stock therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares or stock included in the warrant (in this Ordinance termed a "share warrant").

Issue and effect
of share warrants
to bearer

(2) A share warrant entitles the bearer thereof to the shares or stock therein specified, and the shares or stock may be transferred by delivery of the warrant.

(3) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register the name of a bearer of a share warrant in respect of the shares or stock therein specified without the warrant being surrendered and cancelled.

(4) The bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Ordinance, either to the full extent or for any purposes defined in the articles; except that he shall not be qualified in respect of the shares or stock specified in the warrant for being a director or manager of the company, in cases where such a qualification is required by the articles.

(5) On the issue of a share warrant the company shall strike out of the register of members the name of the member then entered therein as holding the shares or stock specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars;

- (a) the fact of the issue of the warrant;
- (b) a statement of the shares or stock included in the warrant, distinguishing each share by its number; and
- (c) the date of the issue of the warrant.

(6) Until the warrant is surrendered, the above particulars shall be deemed to be the particulars required by this Ordinance to be entered in the register of members; and, on the surrender, the date of the surrender must be entered as if it were the date at which a person ceased to be a member. R.O. 1958, c. 19, s. 44.

Differential Shares

Power of company to arrange for different amounts being paid on shares

45. (1) A company, if so authorized by its articles, may do any one or more of the following things;

- (a) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;
- (b) accept from any member who assents thereto the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up; and
- (c) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others. R.O. 1958, c. 19, s. 45.

Reduction of Paid-up Capital out of Profits

Power to return accumulated profits in reduction of paid-up share capital

46. (1) When a company has accumulated a sum of undivided profits, which with the sanction of the shareholders may be distributed among the shareholders in the form of a dividend or bonus, it may, by special resolution, return the same or any part thereof to the shareholders in reduction of the paid-up capital of the company, the unpaid capital being thereby increased by a similar amount.

(2) The resolution shall not take effect until a memorandum, showing the particulars required by this Ordinance in the case of a reduction of share capital, has been produced to and registered by the Registrar, but the other provisions of this Ordinance with respect to reduction of share capital do not apply to a reduction of paid-up share capital under this section.

(3) On a reduction of paid-up capital in pursuance of this section, any shareholder, or joint shareholder, may, within one month after the passing of the resolution for the reduction, require the company to retain, and the company shall retain accordingly, the whole of the money actually paid on the shares held by him either alone or jointly with any other person, which, in consequence of the reduction, would otherwise be returned to him or them, and thereupon those shares shall, as regards the payment of dividend, be deemed to be paid up to the same extent only as the shares on which payment has been accepted by the shareholders in reduction of paid-up capital; and the company shall invest and keep invested the money so retained in such securities authorized for investment by trustees as the company may determine, and on the money so invested, or on so much thereof as from time to time exceeds the amount of calls subsequently made

on the shares in respect of which it has been retained, the company shall pay the interest received from time to time on the securities.

(4) The amount retained and invested shall be held to represent the future calls which may be made to replace the share capital so reduced on those shares, whether the amount obtained on sale of the whole or such proportion thereof as represents the amount of any call when made produces more or less than the amount of the call.

(5) On a reduction of paid-up share capital in pursuance of this section, the powers vested in the directors of making calls on shareholders in respect of the amount unpaid on their shares shall extend to the amount of the unpaid share capital as augmented by the reduction.

(6) After any reduction of share capital under this section the company shall specify in the annual list of members required by this Ordinance the amounts retained at the request of any of the shareholders in pursuance of this section, and shall specify in the statements of account laid before any general meeting of the company the amount of undivided profits returned in reduction of paid-up share capital under this section. R.O. 1958, c. 19, s. 46.

Alteration of Share Capital

47. (1) A company limited by shares, if so authorized by its articles, may alter the conditions of its memorandum as follows;

Power of
company limited
by shares to alter
its share capital

- (a) increase its share capital by the issue of new shares of such amount as it thinks expedient;
- (b) consolidate and divide any of its share capital into shares of larger amount than its existing shares;
- (c) convert any of its paid-up shares into stock, and recon-vert that stock into paid-up shares of any denomination;
- (d) subdivide any shares, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived; and
- (e) cancel shares that, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section with respect to subdivision of shares shall be exercised by special resolution.

(3) Where any alteration has been made under this section in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration; where a company makes default in complying with this provision it is liable to a fine not exceeding five dollars for each copy in respect of which default is made; and every director and manager of the company who knowingly and wilfully authorizes or permits the default is liable to the like penalty.

(4) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Ordinance. R.O. 1958, c. 19, s. 47.

Notice to Registrar of consolidation of share capital, conversion of shares into stock, etc.

48. (1) Where a company having a share capital has consolidated and divided its shares of larger amount than its existing shares, or converted any of its shares into stock, or reconverted stock into shares, it shall give notice to the Registrar of the consolidation, division, conversion or reconversion, specifying the shares consolidated, divided or converted, or the stock reconverted. R.O. 1958, c. 19, s. 48.

Effect of conversion of shares into stock

49. (1) Where a company having a share capital has converted any of its shares into stock, and given notice of the conversion to the Registrar, all the provisions of this Ordinance that are applicable to shares only shall cease as to so much of the share capital as is converted into stock; and the register of members of the company, and the list of members to be forwarded to the Registrar, shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares as required by this Ordinance, R.O. 1958, c. 19, s. 49.

Notice of increase share capital or of members

50. (1) Where a company having a share capital, whether or not its shares have been converted into stock, has increased its share capital beyond the registered capital, and where a company not having a share capital has increased the number of its members beyond the registered number, it shall give to the Registrar, in the case of an increase of share capital, within fifteen days after the passing, or in the case of a special resolution the confirmation, of the resolution authorizing the increase, and in the case of an increase of members within fifteen days after the increase was resolved on or took place, notice of the increase of capital or members, and the Registrar shall record the increase.

(2) Where a company makes default in complying with the requirements of this section it is liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorizes or permits the default is liable to the like penalty. R.O. 1958, c. 19, s. 50.

51. (1) A company limited by shares may, by special resolution confirmed by an order of the Court, modify the conditions contained in its memorandum so as to reorganize its share capital, whether by the consolidation of shares of different classes or by the division of its shares into shares of different classes; except that no preference or special privilege attached to or belonging to any class of shares shall be interfered with except by a resolution passed by a majority in number of shareholders of that class holding three-fourths of the share capital of that class and confirmed at a meeting of shareholders of that class in the same manner as a special resolution of the company is required to be confirmed, and every resolution so passed shall bind all shareholders of the class.

Reorganization
of share capital

(2) Where an order is made under this section, a copy thereof certified by the Clerk of the Court shall be filed with the Registrar within seven days after the making of the order, or within such further time as the Court may allow, and the resolution shall not take effect until such a copy has been so filed. R.O. 1958, c. 19, s. 51.

Reduction of Share Capital

52. (1) Subject to confirmation by the Court, a company limited by shares, if so authorized by its articles, may by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may

Special resolution
for reduction
of share
capital

- (a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up;
- (b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital that is lost or unrepresented by available assets; or
- (c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital that is in excess of the wants of the company;

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Ordinance called a "resolution for reducing share capital". R.O. 1958, c. 19, s. 52.

Application to Court for confirming order

53. (1) Where a company has passed and confirmed a resolution for reducing share capital it may apply to the Court for an order confirming the reduction. R.O. 1958, c. 19, s.53.

Addition to name of company of "and reduced"

54. (1) On and from the confirmation by a company of a resolution for reducing share capital, or, where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, then from the presentation of the petition for confirming the reduction, the company shall add to its name, until such date as the Court may fix, the words "and reduced", as the last words in its name, and those words shall, until that date, be deemed to be part of the name of the company.

(2) Where the reduction does not involve either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the Court may, if it thinks expedient, dispense altogether with the addition of the words "and reduced". R.O. 1958, c. 19, s. 54.

Objections by creditors, and settlement of list of objecting creditors

55. (1) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, every creditor of the company who at the date fixed by the Court is entitled to any debt or claim that, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction.

(2) The Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objection to the reduction.

(3) Where a creditor entered on the list whose debt or claim is not discharged or determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the

consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the Court may direct, the following amount;

- (a) if the company admits the full amount of his debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim; or
- (b) if the company does not admit or is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like inquiry and adjudication as if the company were being wound up by the Court. R.O. 1958, c. 19, s. 55.

56. (1) The Court, if satisfied with respect to every creditor of the company who under this Ordinance is entitled to object to the reduction that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit. R.O. 1958, c. 19, s. 56.

Order confirm-
ing reduction

57. (1) The Registrar, on production to him of an order of the Court confirming the reduction of the share capital of a company, and the delivery to him of a copy of the order and of a minute approved by the Court, showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute.

Registration of
order and
minute of
reduction

(2) On the registration, and not before, the resolution for reducing the share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in such manner as the Court may direct.

(4) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute. R.O. 1958, c. 19, s. 57.

58. (1) The minute, when registered, shall be deemed to be substituted for the corresponding part of the memorandum of the company, and shall be valid and alterable as if it had been originally contained therein, and shall be embodied

Minute to form
part of memo-
randum

in every copy of the memorandum issued after its registration.

(2) Where a company makes default in complying with the requirements of this section it is liable to a fine not exceeding five dollars for each copy in respect of which default is made; and every director and manager of the company who knowingly and wilfully authorizes or permits the default is liable to the like penalty. R.O. 1958, c. 19, s. 58.

Liability of
members in
respect of
reduced shares

59. (1) A member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount paid, or, as the case may be, the reduced amount, if any, that is to be deemed to have been paid, on the share, and the amount of the share as fixed by the minute; except that if any creditor entitled in respect of any debt or claim to object to the reduction of share capital is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Ordinance with respect to winding-up by the Court, to pay the amount of his debt or claim, then

- (a) every person who was a member of the company at the date of the registration of the order for reduction and minute shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before that registration; and
- (b) if the company is wound up, the Court, on the application of any such creditor, and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list as if they were ordinary contributories in a winding-up.

(2) Nothing in this section affects the rights of the contributories among themselves. R.O. 1958, c. 19, s. 59.

Concealing
name of creditor
entitled to object

60. (1) Where any director, manager or officer of the company wilfully conceals the name of any creditor of the company entitled to object to the reduction, or wilfully misrepresents the nature or amount of the debt or claim of any creditor, or where any director or manager of the company aids or abets in or is privy to any such concealment or misrepresentation, every such director, manager or officer is,

for every such violation of this Ordinance, upon summary conviction, liable to a fine not exceeding five hundred dollars. R.O. 1958, c. 19, s. 60.

61. (1) In any case of reduction of share capital, the Court may require the company to publish as the Court directs the reasons for reduction, or such other information in regard thereto as the Court may think expedient with a view to giving proper information to the public, and, if the Court thinks fit, the causes that led to the reduction. R.O. 1958, c. 19, s. 61.

Publication of reasons for reduction

62. (1) A company limited by guarantee and registered after the 1st day of May, 1914, may, if it has a share capital and is so authorized by its articles, increase or reduce its share capital in the same manner and subject to the same conditions in and subject to which a company limited by shares may increase or reduce its share capital under the provisions of this Ordinance. R.O. 1958, c. 19, s. 62.

Increase and reduction of share capital in case of a company limited by guarantee having a share capital

Reduction of Capital by certain Limited Companies

63. (1) In addition to the power of reducing its share capital, it shall be lawful for companies incorporated under this or any former Ordinance of the Territory, whose principal and main business is to acquire tracts of land with the object of subdividing the same into lots and selling such lots when so subdivided as aforesaid, to declare and pay dividends out of the moneys being the net proceeds of the sale of their lands so subdivided, and all such dividends and payments shall be taken and considered as a reduction of the capital of such company, provided such companies have paid all debts legally owing by them, or have made ample provision for the payment of the same, testified by a statutory declaration made by the secretary of the company, who shall also exhibit and file with the Registrar a correct account of the liabilities and assets of the company.

(2) A resolution passed by the shareholders holding at least two-thirds in value of the paid-up capital stock of the company, at any general meeting of shareholders, shall be necessary for the declaration and payment of such dividends; and such resolution shall only be passed after the expiration of ten days from the filing of the statutory declaration required to be filed with the Registrar.

(3) A copy of every such resolution, under the seal of the company, and certified to by the secretary of the company, shall be filed in the office of the Registrar within ten days after the passing of the resolution, and ten days shall elapse

after the filing thereof before payment out of any such dividends to the shareholders shall be made.

(4) After the filing of every such resolution with the Registrar, the said Registrar shall, by a notice published in four issues of the *Yukon Gazette*, declare to what sum the capital of any such company, by such payment of dividends, stands reduced; and the company shall pay the Registrar the costs of such publication. R.O. 1958, c. 19, s. 63.

Registration of Unlimited Company as Limited

Registration of unlimited company as limited

64. (1) Subject to this section, any company registered as unlimited may register under this Ordinance as limited, but the registration of an unlimited company as a limited company shall not affect any debts, liabilities, obligations or contracts incurred or entered into by, to, with or on behalf of the company before the registration, and those debts, liabilities, obligations and contracts may be enforced in manner provided by Part XII in the case of a company registered in pursuance of that Part.

(2) On registration in pursuance of this section, the Registrar shall close the former registration of the company and may dispense with the delivery to him of copies of any documents with copies of which he was furnished on the occasion of the original registration of the company, but, otherwise, the registration shall take place in the same manner and shall have effect as if it were the first registration of the company under this Ordinance, and as if the provisions of the Ordinance under which the company was previously registered and regulated had been contained in different ordinances from those under which the company is registered as a limited company. R.O. 1958, c. 19, s. 64.

Power of unlimited company to provide for reserve share capital on registration

65. (1) An unlimited company having a share capital may, by its resolution for registration as a limited company in pursuance of this Ordinance,

- (a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up; or
- (b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up. R.O. 1958, c. 19, s. 65.

Reserve Liability of Limited Company

66. (1) A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid. R.O. 1958, c. 19, s. 66.

Reserve liability
of limited
company

Unlimited Liability of Directors

67. (1) In a limited company the liability of the directors or managers or of the managing director, may, if so provided by the memorandum, be unlimited.

Limited compa-
ny may have
directors with
unlimited
liability

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers and secretary of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice, in writing that his liability will be unlimited.

(3) Where any director, manager or proposer makes default in adding such a statement, or if any promoter, director, manager, or secretary makes default in giving such a notice, he is liable to a fine not exceeding five hundred dollars, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default. R.O. 1958, c. 19, s. 67.

68. (1) A limited company, if authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors or managers or of any managing director.

Special resolu-
tion of limited
company
making liability
of directors
unlimited

(2) Upon the confirmation of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum; and a copy shall be embodied in or annexed to every copy of the memorandum issued after the confirmation of the resolution.

(3) Where a company defaults in complying with the requirements of this section, it is liable to a fine not exceeding five dollars for each copy in respect of which default is made and every director or manager of the company who

knowingly and wilfully authorizes or permits the default is liable to the like penalty. R.O. 1958, c. 19, s. 68.

PART IV

MANAGEMENT AND ADMINISTRATION

Office and Name

Registered office
of company

69. (1) Every company shall have a registered office in the Territory to which all communications and notices may be addressed, and may from time to time change the location of its registered office.

(2) Notice of the situation of the registered office of such company shall be delivered to the Registrar with the memorandum of association, and notice of any change shall be given to the Registrar, who shall record the same.

(3) Where a company carries on business without complying with the requirements of this section it is liable to a fine not exceeding twenty-five dollars for every day during which it so carries on business. R.O. 1958, c.19, s. 69.

Publication of
name by a
limited company

70. (1) Every limited company shall

- (a) paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in letters easily legible;
- (b) have its name engraved in legible characters on its seal; and
- (c) have its name mentioned in legible characters in all notices, advertisements and other official publications of the company, and in all bills of exchange, promissory notes, indorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letters of credit of the company.

(2) Where a limited company does not paint or affix, and keep painted or affixed, its name in manner directed by this Ordinance, it is liable to a fine not exceeding twenty-five dollars for not so painting or affixing its name, and for every day during which its name is not so kept painted or affixed; and every director and manager of the company who knowingly and wilfully authorizes or permits the default is liable to the like penalty.

(3) Where any director, manager or officer of a limited company, or any person on its behalf, uses or authorizes the

use of any seal purporting to be a seal of the company on which its name is not engraved, or issues or authorizes the issue of any notice, advertisement or other official publication of the company, or signs or authorizes to be signed on behalf of the company any bill of exchange, promissory note, endorsement, cheque, order for money or goods, or issues or authorizes to be issued any bill of parcels, invoice, receipt or letter of credit of the company wherein its name is not mentioned in manner aforesaid, he is liable upon summary conviction to a fine not exceeding two hundred and fifty dollars, and is further personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount thereof, unless the same is duly paid by the company. R.O. 1958, c. 19, s. 70; 1966 (2nd) c. 5, s. 1.

Meetings and Proceedings

71. (1) A general meeting of every company shall be held once at the least in every calendar year, and not more than eighteen months after the holding of the last preceding general meeting, and, if not so held, the company and every director, manager, secretary and other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding two hundred and fifty dollars.

Annual general
meeting

(2) When default has been made in holding a meeting of the company in accordance with this section, the Court may, on the application of any member of the company, call or direct the calling of a general meeting of the company.

(3) Every general meeting of the company shall be held within the Territory.

(4) This section does not apply to an extra-territorial company. R.O.1958, c. 19, s. 71.

72. (1) Every company limited by shares registered after the 1st day of May, 1914, shall, within a period of not less than one month nor more than three months from the date at which the company is entitled to commence business, hold a general meeting of the members of the company, which shall be called "the statutory meeting".

First statutory
meeting of the
company

(2) The directors shall, at least seven days before the day on which the meeting is held, forward a report called the "statutory report" to every member of the company and to every other person entitled under this Ordinance to receive it.

(3) The statutory report shall be certified by not less than two directors of the company, or, where there are less than

two directors, by the sole director and manager, and shall state

- (a) the total number of shares allotted, distinguishing shares allotted as fully or partly paid up otherwise than in cash, and stating in the case of shares partly paid up the extent to which they are so paid up, and in either case the consideration for which they have been allotted ;
- (b) the total amount of cash received by the company in respect of all the shares allotted ;
- (c) an abstract of the receipts of the company on account of its capital, whether from shares or debentures, and of the payments made thereout, up to a date within seven days of the date of the report, exhibiting under distinctive headings the receipts of the company from shares and debentures and other sources, the payments made thereout, the particulars concerning the balance remaining in hand and an account or estimate of the preliminary expenses of the company ;
- (d) the names, addresses and descriptions of the directors, auditors, managers and secretary of the company ; and
- (e) the particulars of any contract, the modification of which is to be submitted to the meeting for its approval, together with the particulars of the modification.

(4) The statutory report shall, so far as it relates to the shares allotted by the company, and to the cash received in respect of such shares, and to the receipts and payments of the company on capital account, be certified as correct by the auditors, if any, of the company.

(5) The directors shall cause a copy of the statutory report, certified as by this section required, to be filed with the Registrar forthwith after the sending thereof to the members of the company.

(6) The directors shall cause a list showing the names, descriptions and addresses of the members of the company, and the number of shares held by them respectively, to be produced at the commencement of the meeting, and to remain open and accessible to any member of the company during the continuance of the meeting.

(7) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company, or arising out of the statutory report, whether previous notice has been given or not, but no resolution of which notice has not been given in accordance with the articles may be passed.

(8) The meeting may adjourn from time to time, and at any adjourned meeting any resolution of which notice has been given in accordance with the articles, either before or subsequently to the former meeting, may be passed, and the adjourned meeting shall have the same powers as an original meeting.

(9) If a petition is presented to the Court in the manner provided by Part IX, for winding up the company on the ground of default in filing the statutory report or in holding the statutory meeting, the Court may, instead of directing that the company be wound up, give directions for the statutory report to be filed or a meeting to be held, or make such other order as may be just.

(10) The provisions of this section as to the forwarding and filing of the statutory report do not apply in the case of a private company.

(11) Where a company limited by shares makes default in complying with the requirements of this section that apply to it, such company is liable, on summary conviction, to a fine not exceeding twenty-five dollars for each day during which such default continues; and every director, manager or other officer of the company who knowingly and wilfully authorizes or permits the default is liable to the like fine; except that where default has been made in holding the statutory meeting or filing the statutory report in this section mentioned, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that such default was accidental or due to inadvertence, or that it is just and equitable to grant relief, may make an order extending the time for compliance with this section for such period as the Court may think proper. R.O. 1958, c. 19, s. 72.

73. (1) Notwithstanding anything in the articles of a company, the directors of a company shall, on the requisition of the holders of not less than one-tenth of the issued share capital of the company upon which all calls or other sums then due have been paid, forthwith proceed to convene an extraordinary general meeting of the company.

Convening of
extraordinary
general meeting
on requisition

(2) The requisition shall state the objects of the meeting, and shall be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition

being so deposited, the requisitionists, or a majority of them in value, may themselves convene the meeting, but any meeting so convened shall not be held after three months from the date of the deposit.

(4) If at any such meeting a resolution requiring confirmation at another meeting is passed, the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution; and, if the directors do not convene the meeting within seven days from the date of the passing of the first resolution, the requisitionists, or a majority of them in value, may themselves convene the meeting.

(5) Any meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors. R.O. 1958, c. 19, s. 73.

Provisions as to meetings and votes.

74. (1) In default of and subject to any regulations in the articles,

- (a) a meeting of a company may be called by seven days' notice in writing, served on every member in the manner in which notices are required to be served by Table A in Schedule I;
- (b) five members may call a meeting;
- (c) any person elected by the members present at a meeting may be chairman thereof; and
- (d) every member shall have one vote in respect of each share held by him. R.O. 1958, c. 19, s. 74.

Representation of companies at meetings of other companies of which they are members.

75. (1) A company that is a member of another company may, by resolution of the directors, authorize any of its officials or any other person to act as its representative at any meeting of that other company, and the person so authorised shall be entitled to exercise the same powers on behalf of the company which he represents as if he were an individual shareholder of that other company. R.O. 1958, c. 19, s. 75.

Definitions of extraordinary and special resolution.

76. (1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members entitled to vote as are present in person or by proxy, where proxies are allowed, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been

- (a) passed in manner required for the passing of an extraordinary resolution; and
- (b) confirmed by a majority of such members entitled to vote present in person or by proxy, where proxies are allowed, at a subsequent general meeting, of which notice has been duly given, and held after an interval of not less than fourteen days, nor more than one month, from the date of the first meeting.

(3) At any meeting at which an extraordinary resolution is submitted to be passed or a special resolution is submitted to be passed or confirmed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) At any meeting at which an extraordinary resolution is submitted to be passed or confirmed, a poll may be demanded, if demanded by three persons for the time being entitled according to the articles to vote, unless the articles of the company require a demand by such number of such persons, not in any case exceeding five, as may be specified in the articles.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll reference shall be had to the number of votes to which each member is entitled by the articles of the company.

(6) For the purposes of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by the articles. R.O. 1958, c. 19, s. 76.

77. (1) A copy of every special and extraordinary resolution duly authenticated as provided in section 127 shall, within fifteen days from the confirmation of the special resolution or from the passing of an extraordinary resolution, as the case may be, be filed with the Registrar.

Registration and
copies of special
resolutions

(2) Where articles have been registered, a copy of every special resolution for the time being in force shall be embodied in or annexed to every copy of the articles issued after the confirmation of the resolution.

(3) Where articles have not been registered, a copy of every special resolution shall be forwarded to any member at his

request, on payment of twenty-five cents or such less sum as the company may direct.

(4) Where a company makes default in forwarding a copy of a special or extraordinary resolution to the Registrar, it is liable to a fine not exceeding ten dollars for every day during which the default continues.

(5) Where a company makes default in embodying in or annexing to a copy of its articles or in forwarding to a member when required by this section a copy of a special resolution, it is liable to a fine not exceeding five dollars for each copy in respect of which default is made.

(6) Every director and manager of a company who knowingly and wilfully authorizes or permits any default by the company in complying with the requirements of this section is liable to the like penalty as is imposed by this section on the company for that default. R.O. 1958, c. 19, s. 77.

Minutes of proceedings of meetings and directors

78. (1) Every company shall cause minutes of all proceedings of general meetings and, where there are directors or managers, of its directors or managers to be entered in books kept for that purpose.

(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Until the contrary is proved, every general meeting of the company or meeting of directors or managers in respect of the proceedings whereof minutes have been so made shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers or liquidators shall be deemed to be valid. R.O. 1958, c. 19, s. 78.

Appointment, Qualification, etc., of Directors

Restrictions on appointment or advertisement of director

79. (1) A person is not capable of being appointed director of a company by the articles, and shall not be named as a director or proposed director of a company in any prospectus issued by or on behalf of the company, unless, before the registration of the articles or the publication of the prospectus, as the case may be, he has, by himself, or by his agent authorized in writing,

(a) signed and filed with the Registrar a consent in writing to act as such director; and

- (b) either signed the memorandum for a number of shares not less than his qualification, if any, or signed and filed with the Registrar a contract in writing to take from the company and pay for his qualification shares if any.

(2) On the application for registration of the memorandum and articles of a company the applicant shall deliver to the Registrar a list of the persons who have consented to be directors of the company, and, if this list contains the name of any person who has not so consented, the applicant shall be liable to a fine not exceeding two hundred and fifty dollars.

(3) This section does not apply to a private company nor to a prospectus issued by or on behalf of a company after the expiration of one year from the date at which the company is entitled to commence business. R.O. 1958, c. 19, s. 79.

80. (1) Without prejudice to the restrictions imposed by section 79, it shall be the duty of every director who is by the regulations of the company required to hold a specified share qualification, and is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the regulations of the company.

Qualification of
director

(2) The office of director of a company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the regulations of the company, obtain his qualification, or if after the expiration of such period or shorter time he ceases at any time to hold his qualification; and a person vacating office under this section shall be incapable of being reappointed director of the company until he has obtained his qualification.

(3) Where after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he is liable to a fine not exceeding, twenty-five dollars for every day between the expiration of the said period or shorter time and the last day on which it is proved that he acted as a director. R.O. 1958, c. 19, s. 80.

81. The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification. R.O. 1958, c. 19, s. 81.

Validity of acts
of directors

82. (1) Every company shall keep at its registered office a register containing the names and addresses and the occupa-

List of directors
to be sent to
Registrar

tions of its directors or managers, and send to the Registrar a copy thereof, and from time to time notify to the Registrar any change among its directors or managers.

(2) Where default is made in compliance with this section, the company is liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorizes or permits the default is liable to the like penalty. R.O. 1958, c. 19, s. 82.

Contracts, etc.

Form of contracts

83. (1) Contracts on behalf of a company may be made as follows:

- (a) any contract which if made between private persons would by law be required to be in writing, and if made according to the law of the Territory or of Canada, to be under seal, may be made on behalf of the company, and may in the same manner be varied or discharged;
- (b) any contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company 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 company by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto, their heirs, executors or administrators, as the case may be. R.O. 1958, c. 19, s. 83; 1971 (1st) c. 17, s. 3.

Bills of exchange and promissory notes.

84. (1) A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of a company if made, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority. R.O. 1958, c. 19, s. 84.

Contracts generally when made by company, etc.

85. (1) Every contract, agreement, engagement or bargain made, and every bill of exchange drawn, accepted or endorsed, and every promissory note and cheque made,

drawn or endorsed on behalf of the company by any agent, officer or servant of the company, in general accordance with his powers as such under the regulations of the company, shall be binding upon the company; it shall not be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque, or to prove that the same was made, drawn, accepted or endorsed, as the case may be, in pursuance of any regulations or special resolution or order; nor shall the party so acting as agent, officer or servant of the company be thereby subjected individually to any liability whatsoever to any third party therefor. R.O. 1958, c. 19, s. 85.

86. (1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters as its attorney, to execute deeds on its behalf in any place situate within or without the limits of the Territory; and every deed signed by such attorney, on behalf of the company and under his seal, shall bind the company and have the same effect as if it were under the common seal of the company. R.O. 1958, c. 19, s. 86.

Power of attorney by company.

87. (1) A company whose objects require or comprise the transaction of business in foreign countries may, if authorized by its articles, have for use in any territory, district or place not situate in the Territory an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district or place where it is to be used.

Power for company to have official seal for use abroad.

(2) A company having such an official seal may, by writing under its common seal, authorize any person appointed for the purpose in any territory, district or place not situate in the Territory to affix the same to any deed or other document to which the company is party in that territory, district or place.

(3) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority; or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.

(4) The person affixing any such official seal shall, by writing under his hand, on the deed or other document to which the seal is affixed, certify the date and place of affixing the same.

(5) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company. R.O. 1958, c. 19, s. 87.

Prospectus

Filing of
prospectus

88. (1) Every prospectus that relates to any company or intended company, and is issued by or on behalf of any such company or intended company or by or on behalf of any person interested in any such company or intended company, shall be dated, and that date shall, unless the contrary be proved, be taken as the date of publication of the prospectus.

(2) A copy of every such prospectus, signed by every person who is a director or proposed director of the company on the date mentioned in subsection (1), or where such prospectus is issued by or on behalf of any person interested as aforesaid, signed by such person, or in any case signed by an agent of such director or proposed director or person, duly authorized in writing, shall be filed with the Registrar on or before the date of its publication, and no such prospectus shall be issued until a copy thereof has been so filed and registered.

(3) The Registrar shall not file any prospectus unless it is dated, and the copy thereof signed, in manner required by this section.

(4) Every prospectus shall state on the face of it that a copy has been filed as required by this section.

(5) Where a prospectus is issued without a copy thereof being so filed, the company, and every person who is knowingly a party to the issue of the prospectus, is liable to a fine not exceeding twenty-five dollars for every day from the date of the issue of the prospectus until a copy thereof is so filed. R.O. 1958, c. 19, s. 88.

Specific require-
ments as to
particulars of
prospectus

89. (1) Every prospectus issued as mentioned in section 88 shall state :

- (a) the contents of the memorandum, with the names, descriptions and addresses of the signatories, and the number of shares subscribed for by them respectively ; and the number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company ;
- (b) the number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors ;

- (c) the names, descriptions and addresses of the directors or proposed directors;
- (d) the minimum subscription on which the directors may proceed to allotment, and the amount payable on the application and allotment on each share; and in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, and the amount actually allotted, and the amount, if any, paid on shares so allotted;
- (e) the number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued;
- (f) the names and addresses of the vendors of any property purchased or acquired by the company, or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus, or the purchase or acquisition of which has not been completed at the date of issue of the prospectus, and the amount payable in cash, shares or debentures to the vendor, and where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor; except that where the vendors or any of them are a firm the members of the firm shall not be treated as separate vendors;
- (g) the amount, if any, paid or payable as purchase money in cash, shares or debentures for any such property as aforesaid, specifying the amount, if any, payable for goodwill;
- (h) the amount, if any, paid within the last two preceding years, or payable, as commission for subscribing or agreement to subscribe, or procuring, or agreeing to procure subscriptions, for any shares in or debentures of the company, or the rate of any such commission; except that it shall not be necessary to state the commission payable to sub-underwriters;
- (i) the amount or estimated amount of preliminary expenses;
- (j) the amount paid within the last two preceding years or intended to be paid to any promoter, and the consideration for any such payment;

- (k) the dates of and parties to every material contract, and a reasonable time and place at which any material contract or a copy thereof may be inspected; except that this requirement shall not apply to a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company, or to any contract entered into more than two years before the date of issue of the prospectus;
 - (l) the names and addresses of the auditors, if any, of the company;
 - (m) full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion of formation of the company; and
 - (n) where the company is a company having shares of more than one class, the right of voting at meetings of the company conferred by the several classes of shares respectively.
- (2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where
- (a) the purchase money is not fully paid at the date of issue of the prospectus;
 - (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus; or
 - (c) the contract depends for its validity or fulfilment on the result of that issue.
- (3) Where any of the property to be acquired by the company is to be taken on lease, this section applies as though the expression "vendor" included the lessor, the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.
- (4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section, or purporting to affect him with notice

of any contract, document or matter not specifically referred to in the prospectus, is void.

(5) Where the prospectus mentioned in this section is published as a newspaper advertisement, it shall not be necessary in the advertisement to specify the contents of the memorandum or the signatories thereto, and the number of shares subscribed for by them.

(6) In the event of non-compliance with any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance, if he proves that

- (a) as regards any matter not disclosed, he was not cognizant thereof; or
- (b) the non-compliance arose from an honest mistake of fact on his part;

except that, in the event of non-compliance with the requirements contained in paragraph (1)(m) no director or other person shall incur any liability in respect of the non-compliance unless it is proved that he had knowledge of the matters not disclosed.

(7) This section does not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe either for shares or for the debentures of the company, whether with or without the right to renounce in favour of other persons; but, otherwise, this section applies to any prospectus whether issued on or with reference to the formation of a company or subsequently.

(8) The requirements of this section as to the memorandum and the qualification, remuneration and interest of directors, the names, descriptions and addresses of directors or proposed directors, and the amount or estimated amount of preliminary expenses, shall not apply in the case of a prospectus issued more than one year after the date at which the company is entitled to commence business.

(9) Nothing in this section limits or diminishes any liability that any person may incur under the general law or this Ordinance apart from this section. R.O. 1958, c. 19, s. 89.

90. (1) A company that does not issue a prospectus on or with reference to its formation shall not allot any of its shares or debentures unless before the first allotment of either shares or debentures there has been filed with the Registrar a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the

Obligations of
companies where
no prospectus is
issued

company or by his agent authorized in writing, in the form and containing the particulars set out in Schedule II.

(2) This section does not apply to a private company or to a company that has allotted any shares or debentures before the 1st day of May, 1914, R.O. 1958, c. 19, s. 90.

Restriction on alteration of terms of contract mentioned in prospectus

91. (1) A company shall not, previously to the statutory meeting, vary the terms of a contract referred to in the prospectus, except subject to the approval of the statutory meeting. R.O. 1958, c. 19, s. 91.

Liability for statements in prospectus

92. (1) Where a prospectus invites persons to subscribe for shares in or debentures of a company, every person who is a director of the company at the time of the issue of the prospectus and every person who has authorized the naming of him and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time, and every promoter of the company, and every person who has authorized the issue of the prospectus, is liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss of damage they may have sustained by reason of any untrue statement therein, or in any report or memorandum appearing on the face thereof, or by reference incorporated therein or issued therewith, unless it is proved,

- (a) with respect to every untrue statement not purporting to be made on the authority of an expert, or of a public official document or statement, that he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true;
- (b) with respect to every untrue statement purporting to be a statement by or contained in what purports to be a copy of or extract from a report or valuation of an expert, that it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation; but the director, person named as director, promoter or person who authorized the issue of the prospectus, is liable to pay compensation as aforesaid if it is proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it; and
- (c) with respect to every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, that it was a correct and fair

representation of the statement or copy of or extract from the document;

or unless it is proved

- (d) that having consented to become a director of the company he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent;
- (e) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or
- (f) that after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto, and gave reasonable public notice of the withdrawal, and of the reason therefor.

(2) Where an existing company has issued shares or debentures, and for the purpose of obtaining further capital by subscriptions for shares or debentures issues a prospectus, a director is not liable in respect of any statement therein, unless he has authorized the issue of the prospectus, or has adopted or ratified it.

(3) Where the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof, the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof, is liable to indemnify the person named as aforesaid against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus, or in defending himself against any action or legal proceedings brought against him in respect thereof.

(4) Every person who by reason of his being a director, or named as a director or as having agreed to become a director, or of his having authorized the issue of the prospectus, becomes liable to make any payment under this section may recover contribution, as in cases of contract, from any other person who, if sued separately, would have been liable to make the same payment, unless the person who has become so liable was, and that other person was not, guilty of fraudulent misrepresentation.

(5) For the purposes of this section,

- "promoter" (a) "promoter" means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company; and
- "expert" (b) "expert" includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him. R.O. 1958, c. 19, s. 92.

Allotment

Restriction as to
allotment

93. (1) No allotment shall be made of any share capital of a company offered to the public for subscription, unless the following conditions have been complied with, namely:

- (a) the amount, if any, fixed by the memorandum or articles and named in the prospectus as the minimum subscription upon which the directors may proceed to allotment; or
- (b) if no amount is so fixed and named, then the whole amount of the share capital so offered for subscription; has been subscribed, and the sum payable on application for the amount so fixed and named, or for the whole amount offered for subscription, has been paid to and received by the company.

(2) The amounts mentioned in subsection (1) shall be reckoned exclusively of any amount payable otherwise than in cash, and is in this Ordinance referred to as the "minimum subscription".

(3) The amount payable on application on each share shall not be less than five percent of the nominal amount of the share.

(4) Where the conditions in subsections (1) and (3) have not been complied with on the expiration of sixty days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest; and where any such money is not repaid within seventy-five days after the issue of the prospectus, the directors of the company are jointly and severally liable to repay that money with interest at the rate of five percent per annum from the expiration of the seventy-fifth day; except that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except subsection (3), does not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

(7) In the case of the first allotment of share capital payable in cash of a company which does not issue any invitation to the public to subscribe for its shares, no allotment shall be made unless the minimum subscription, that is to say,

- (a) the amount, if any, fixed by the memorandum or articles as the minimum subscription upon which the directors may proceed to allotment; or
- (b) if no amount is so fixed and named, then the whole amount of the share capital other than that issued or agreed to be issued as fully or partly paid up otherwise than in cash,

has been subscribed, and an amount not less than five per cent of the nominal amount of each share payable in cash has been paid to and received by the company.

(8) Subsection (7) does not apply to a private company or to a company that has allotted any shares or debentures before the 1st day of May, 1914. R.O. 1958, c. 19, s. 93.

94. (1) An allotment made by a company to an applicant in contravention of section 93 shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

Effect of
irregular
allotment

(2) Where any director of a company knowingly contravenes or permits or authorizes the contravention of any of the provisions of section 93 with respect to allotment, he is liable to compensate the company and the allottee respectively for any loss, damages or costs which the company or the allottee may have sustained or incurred thereby; except that proceedings to recover any such loss, damages or costs shall not be commenced after the expiration of two years from the date of the allotment. R.O. 1958, c. 19, s. 94.

95. (1) A company shall not commence any business or exercise any borrowing powers unless

Restrictions on
commencement
of business

- (a) shares held subject to the payment of the whole amount thereof in cash have been allotted to an

- amount not less in the whole than the minimum subscription ;
- (b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by him, and for which he is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription, or in the case of a company that does not issue a prospectus inviting the public to subscribe for its shares, on the shares payable in cash ;
 - (c) there has been filed with the Registrar a statutory declaration by the secretary or one of the directors, in the prescribed form, that the conditions in this section have been complied with ; and
 - (d) in the case of a company that does not issue a prospectus inviting the public to subscribe for its shares, there has been filed with the Registrar a statement in lieu of prospectus.
- (2) The Registrar shall, on the filing of this statutory declaration, certify that the company is entitled to commence business, and that certificate shall be conclusive evidence that the company is so entitled.
- (3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only, and shall not be binding on the company until that date, and on that date it shall become binding.
- (4) Nothing in this section prevents the simultaneous offer for subscription or allotment of any shares and debentures or the receipt of any money payable on application for debentures.
- (5) Where a company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention is, without prejudice to any other liability, liable to a fine not exceeding two hundred and fifty dollars for every day during which the contravention continues.
- (6) Nothing in this section applies to a private company or to a company registered before the 1st day of May, 1914, or to a company that does not issue a prospectus inviting the public to subscribe for its shares, or to a company incorporated under the Consolidated Ordinances of the Yukon Territory, 1902, Chapter 57, or hereafter incorporated under Part V of this Ordinance. R.O. 1958, c. 19, s. 95.

96. (1) Whenever a company limited by shares makes any allotment of its shares, the company shall within one month thereafter file with the Registrar Return as to allotments

- (a) a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees, and the amount, if any, paid or due and payable on each share; and
- (b) in the case of shares allotted as fully or partly paid up otherwise than in cash, a contract in writing constituting the title of the allottee to the allotment, together with any contract of sale, or for services or other consideration in respect of which that allotment was made, and a return stating the number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up and the consideration for which they have been allotted.

(2) Where any contract mentioned in subsection (1) is not reduced to writing, the company shall within one month after the allotment file with the Registrar the prescribed particulars of the contract.

(3) Where default is made in complying with the requirements of this section, every director, manager, secretary or other officer of the company who is knowingly a party to the default is liable to a fine not exceeding two hundred and fifty dollars for every day during which the default continues; except that, in case of default in filing with the Registrar within one month after the allotment any document required to be filed by this section, the company, or any person liable for the default, may apply to the Court for relief, and the Court, if satisfied that the omission to file the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the filing of the document for such period as the Court thinks proper. R.O. 1958, c. 19, s. 96.

Commissions and Discounts

97. (1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, if the payment of the commission is authorized by the memorandum or articles, and the commission paid or agreed to be paid does not exceed the amount or rate so authorized, and if the amount or rate percent of Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, etc.

the commission paid or agreed to be paid is, in the case of shares offered to the public for subscription, disclosed in the prospectus.

(2) Save as mentioned in subsection (1), no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) Nothing in this section affects the power of any company to pay such brokerage as has heretofore been lawful for a company to pay, and a vendor to, promoter of, or other person who receives payment in money or shares from, a company has and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been lawful under this section. R.O. 1958, c. 19, s. 97.

Commission etc.
on debentures
requiring
registration
under *Corporation Securities Registration Ordinance*

98. (1) Where any commission, allowance or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company required to be registered under the *Corporation Securities Registration Ordinance*, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under the *Corporation Securities Registration Ordinance* shall include particulars as to the amount or rate percent of the commission, discount or allowance so paid or made, but an omission to do so does not affect the validity of the debentures issued.

(2) The deposit of any debentures as security for any debt of the company shall not for the purposes of this section be treated as the issue of the debentures at a discount. 1964 (2nd) c. 11, s. 1.

Statement in
balance-sheet as
to commissions
and discounts

99. Where a company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures,

the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance-sheet of the company until the whole amount thereof has been written off. R.O. 1958, c. 19, s. 98.

Payment of Interest out of Capital

100. (1) Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant that cannot be made profitable for a lengthened period the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the same to capital as part of the cost of construction of the work or building, or the provision of plant, except that

Power of company to pay interest out of capital in certain cases

- (a) no such payment shall be made unless the same is authorized by the articles or by special resolution ;
- (b) no such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the Commissioner ;
- (c) before sanctioning any such payment the Commissioner may, at the expense of the company, appoint a person to inquire and report to him as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry ;
- (d) the payment shall be made only for such period as may be determined by the Commissioner, and such period shall in no case extend beyond the close of the half-year next after the half-year during which the works or buildings have been actually completed or the plant provided ;
- (e) the rate of interest shall be that agreed upon, and if there shall be no such agreement, shall be the rate provided by statute in cases where interest is by law payable and the rate is not agreed upon ;
- (f) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid ; and
- (g) the accounts of the company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate. R.O. 1958, c. 19, s. 99.

Certificates of Shares, etc.

Limitation of
time for issue of
certificates

101. (1) Every company shall, within two months after the allotment of any of its shares, debentures or debenture stock, and within two months after the registration of the transfer of any such shares, debentures or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

(2) Where default is made in complying with the requirements of this section, the company, and every director, manager, secretary and other officer of the company who is knowingly a party to the default, is liable to a fine not exceeding twenty-five dollars for every day during which the default continues. R.O. 1958, c. 29, s. 100.

Information as to Mortgages, Charges, etc.

Registration of
mortgages and
charges

102. (1) Every mortgage or charge created by a company and being

- (a) a mortgage or charge on uncalled share capital of the company ;
- (b) a mortgage or charge created or evidenced by an instrument that, if executed by an individual, would require registration as a bill of sale ;
- (c) a mortgage or charge on any land, wherever situated, or any interest therein ;
- (d) a mortgage or charge on any book debts of the company ; or
- (e) a floating charge on the undertaking or property of the company,

shall, so far as any security on the company's property or undertaking is thereby conferred, be void against *bona fide* purchasers and mortgagees for valuable consideration, and the liquidator and any creditor of the company, unless the instrument, or a true copy thereof, by which the mortgage or charge is created or evidenced, is registered by filing the same with the Registrar for registration within thirty days after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a mortgage or charge becomes void under this section the money secured thereby shall immediately become payable ; except that

- (f) where the mortgage or charge is created in the Territory, but comprises property outside the Territory, the instrument creating or purporting to create the mort-

gage or charge may be registered notwithstanding that further proceedings may be necessary to make the mortgage or charge valid or effectual according to the law of the country in which the property is situated; and

- (g) where a negotiable instrument has been given to secure the payment of any book debts of a company, the deposit of the instrument for the purpose of securing an advance to the company shall not, for the purposes of this section, be treated as a mortgage or charge on those book debts.

(2) Subsection (1) does not apply to a mortgage or charge contained in an instrument that is filed with the Registrar of Corporation Securities under the *Corporation Securities Registration Ordinance*; and no mortgage or charge on land registered under the *Land Titles Act* becomes void under subsection (1) by reason of the fact that the mortgage or charge is not registered under that subsection.

(3) The Registrar shall keep a register of all mortgages and charges requiring registration under this section, and shall, on payment of the prescribed fee, enter in the register, with respect to every such mortgage or charge, the date of the same, the amount secured by it, short particulars of the property mortgaged or charged, the names of the mortgagors, and the names of the mortgagees or other persons entitled to the charge.

(4) The Registrar shall give a certificate under his hand of the registration of any mortgage or charge registered in pursuance of this section, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this section as to registration have been complied with.

(5) It shall be the duty of the company to register every mortgage or charge created by it requiring registration under this section, but registration of any such mortgage or charge may be affected on the application of any person interested therein; and where the registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the Registrar on the registration.

(6) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee, not exceeding twenty-five cents for each inspection.

(7) Every company shall cause a copy of every instrument creating any mortgage or charge requiring registration under this section to be kept at the registered office of the company. R.O. 1958, c. 19, s. 101; 1964 (2nd) c. 11, s. 2.

Registration of
enforcement of
security

103. (1) If any person obtains an order for the appointment of a receiver or manager of the property of a company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within ten days from the date of the order or of the appointment under the powers contained in the instrument, give notice of the fact to the Registrar, and the Registrar shall, on payment of the prescribed fee, enter the fact in the register of mortgages and charges.

(2) Where any person makes default in complying with the requirements of this section he is liable to a fine not exceeding twenty-five dollars for every day during which the default continues. R.O. 1958, c. 19, s. 102.

Filing of
accounts of
receivers and
managers

104. (1) Every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, and who has taken possession, shall, once in every half-year while he remains in possession, and also on ceasing to act as receiver or manager, file with the Registrar an abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall also on ceasing to act as receiver or manager file with the Registrar notice to that effect, and the Registrar shall enter the notice in the register of mortgages and charges.

(2) Every receiver or manager who makes default in complying with the provisions of this section is liable to a fine not exceeding two hundred and fifty dollars. R.O. 1958, c. 19, s. 103.

Rectification of
register of
mortgages

105. (1) A judge of the Territorial Court, on being satisfied that the omission to register a mortgage or charge within the time required, or that the omission or mis-statement of any particular with respect to any such mortgage or charge, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the judge just and expedient, order that the time for registration be extended, without prejudice to the rights of parties acquired prior to the

actual date of registration, or, as the case may be, that the omission or mis-statement be rectified. R.O. 1958, c. 19, s. 104.

106. (1) The Registrar may, on evidence being given to his satisfaction that the debt for which any registered mortgage or charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the company with a copy thereof. R.O. 1958, c. 19, s. 105.

Entry of satisfaction

107. (1) Where default is made in the registration of any mortgage or charge, every company, and every director, manager or secretary of a company, and every person knowingly a party to the default is, on conviction, liable to a fine not exceeding two hundred and fifty dollars for every day during which the default continues. R.O. 1958, c. 19, s. 106; 1964 (2nd) c. 11, s. 3.

Penalties

108. (1) Every limited company shall keep a register of mortgages and enter therein all mortgages and charges specifically affecting property of the company, giving in each case a short description of the property mortgaged or charged, the amount of the mortgage or charge, and, except in the case of securities to bearer, the names of the mortgagees or persons entitled thereto.

Company's register of mortgages

(2) Where any director, manager or other officer of the company knowingly and wilfully authorizes or permits the omission of any entry required to be made in pursuance of this section, he is liable to a fine not exceeding two hundred and fifty dollars. R.O. 1958, c. 19, s. 107.

109. (1) The copies of instruments creating any mortgage or charge requiring registration under this Ordinance with the Registrar, and the register of mortgages kept in pursuance of section 108, shall be open at all reasonable times to the inspection of any creditor or member of the company without fee, and the register of mortgages shall also be open to the inspection of any other person on payment of such fee, not exceeding twenty-five cents for each inspection as the company may prescribe.

Right to inspect copies of instruments creating mortgages and charges and company's register of mortgages

(2) Where inspection of the said copies or register is refused, any officer of the company refusing inspection, and every director and manager of the company authorizing or knowingly and wilfully permitting the refusal, is liable to a fine not exceeding twenty-five dollars, and a further fine not exceeding ten dollars for every day during which the refusal continues; and, in addition to the above penalty, judge

sitting in chambers may by order compel an immediate inspection of the copies or register. R.O. 1958, c. 19, s. 108.

Right of debentureholders to inspect the register of debentureholders and to have copies of trust deed

110. (1) Every register of holders of debentures of a company shall, except when closed in accordance with the articles during such period or periods, not exceeding in the whole thirty days in any year, as may be specified in the articles, be open to the inspection of the registered holder of any such debentures, and of any holder of shares in the company, but subject to such reasonable restrictions as the company may in general meeting impose, so that at least two hours in each day are appointed for inspection, and every such holder may require a copy of the register or any part thereof on payment of ten cents for every one hundred words required to be copied.

(2) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment in the case of a printed trust deed of the sum of twenty-five cents or such less sum as may be prescribed by the company, or, where the trust deed had not been printed, on payment of ten cents for every one hundred words required to be copied.

(3) Where inspection is refused, or a copy is refused or not forwarded, the company is liable to a fine not exceeding twenty-five dollars, and to a further fine not exceeding ten dollars for every day during which the refusal continues; and every director, manager, secretary or other officer of the company who knowingly authorizes or permits the refusal shall incur the like penalty. R.O. 1958, c. 19, s. 109.

Company includes society, etc.

111. (1) The word "company" in sections 102 to 110 means any company, society or association incorporated by or under any public Ordinance of the Territory. R.O. 1958, c. 19, s. 110.

Debentures and Floating Charges

Conditions in debentures not invalid

112. (1) A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Ordinance, is not invalid by reason only that the debentures are made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding. R.O. 1958, c. 19, s. 111.

113. (1) The holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.

Charge by debentures

114. (1) Where any person knowingly and wilfully authorizes or permits the delivery of any debenture or certificate of debenture stock requiring registration under the *Corporation Securities Registration Ordinance* without a copy of the certificate of filing thereunder being endorsed upon the debenture or certificate of debenture stock, he is, without prejudice to any other liability, liable to a fine not exceeding five hundred dollars. 1964 (2nd) c. 11, s. 4.

Failing to note registration on debenture

115. (1) Where either before or after the commencement of this Ordinance a company has redeemed any debentures previously issued, the company, unless the articles or the conditions of issue expressly otherwise provide, or unless the debentures have been redeemed in pursuance of any obligation on the company to do so, not being an obligation enforceable only by the person to whom the redeemed debentures were issued or his assigns, has power, and shall be deemed to always have had power, to keep the debentures alive for the purpose of reissue; and where a company has purported to exercise such a power the company has power, and shall be deemed always to have had power, to reissue the debentures either by reissuing the same debentures or by issuing other debentures in their place, and upon such a reissue the person entitled to the debentures has, and shall be deemed always to have had, the same rights and priorities as if the debentures had not previously been issued.

Power to reissue redeemed debentures in certain cases

(2) Where with the object of keeping debentures alive for the purpose of reissue they have either before or after the commencement of this Ordinance been transferred to a nominee of the company, a transfer from that nominee shall be deemed to be a reissue for the purposes of this section.

(3) Where a company has either before or after the commencement of this Ordinance deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.

(4) The reissue of a debenture or the issue of another debenture in its place under the power of this section given to or deemed to have been possessed by a company, whether the reissue or issue was made before or after the commencement

of this Ordinance, shall not be treated as the issue of a new debenture for the purposes of any provision limiting the amount or number of debentures to be issued.

- (5) Nothing in this section shall be held to prejudice
 - (a) the operation of any judgment or order of a court of competent jurisdiction pronounced or made before the 1st day of May, 1914, as between the parties to the proceedings in which the judgment was pronounced or the order made, and any appeal from any such judgment or order shall be decided as if this Ordinance had not been passed; or
 - (b) any power to issue debentures in the place of any debentures paid off or otherwise satisfied or extinguished, reserved to a company by its debentures or the securities for the same. R.O. 1958, c. 19, s. 112.

Specific performance of contract to subscribe for debentures

116. (1) A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance. R.O. 1958, c. 19, s. 113.

Payments of certain debts out of assets subject floating charge in priority to claims under the charge

117. (1) Where, in the case of a company registered under this Ordinance, either a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts which in every winding-up are, under the provisions of Part IX relating to preferential payments, to be paid in priority to all other debts shall be paid forthwith out of any assets coming to the hands of the receiver or other person taking possession in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in Part IX shall be reckoned from the date of the appointment of the receiver or of possession being taken, as the case may be.

(3) Any payments made under this section shall be recouped as far as may be out of the assets of the company available for payment of general creditors. R.O. 1958, c. 19, s. 114.

Statement to be published by certain Companies

Certain companies to publish statement in Schedule

118. (1) Every association or society formed under any of the Ordinances of the Territory shall, before it commences business, and also on the first Monday in February in every

year during which it carries on business, make a statement in Form F in Schedule II, or as near thereto as circumstances permit.

(2) A copy of the statement shall be placed in a conspicuous place in the registered or head office of the company or society, and in every branch office where the business of the company or society is carried on.

(3) Every member and every creditor of the company or society shall be entitled to a copy of the statement on payment of a sum not exceeding twenty-five cents.

(4) Where default is made in compliance with this section, the company, association or society is liable to a fine not exceeding twenty-five dollars for every day during which the default continues; and every director and manager of the company who knowingly and wilfully authorizes or permits the default is liable to the like penalty. R.O. 1958, c. 19, s. 115.

Inspection and Audit

119. (1) The Commissioner may appoint one or more competent inspectors to investigate the affairs of any company and to report in the manner he directs,

Investigation of
affairs of
company by
government
inspectors

- (a) in the case of a company having a share capital, on the application of members holding not less than one-tenth of the shares issued; or
- (b) in the case of a company not having a share capital, on the application of not less than one-fifth in number of the persons on the company's register of members.

(2) The application shall be supported by such evidence as the Commissioner may require for the purpose of showing that the applicants have good reason for, and are not actuated by malicious motives in requiring the investigation; and the Commissioner may, before appointing an inspector, require the applicants to give security for payment of the costs of the inquiry.

(3) It shall be the duty of all officers and agents of the company to produce to the inspectors all books and documents in their custody or power.

(4) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.

(5) Where any officer or agent refuses to produce any book or document which under this section it is his duty to pro-

duce, or to answer any question relating to the affairs of the company, he is liable to a fine not exceeding twenty-five dollars in respect of each refusal.

(6) On the conclusion of the investigation the inspectors shall report their opinion to the Commissioner, and a copy of the report shall be forwarded by the Territorial Secretary to the registered office of the company, and a further copy shall, at the request of the applicants for the investigation, be delivered to them.

(7) The Commissioner may make such order as to the costs and expenses incidental to the investigation as may be deemed proper. R.O. 1958, c. 19, s. 116.

Power of
company to
appoint inspec-
tors

120. (1) A company may, by special resolution, appoint inspectors to investigate its affairs.

(2) Inspectors so appointed shall have the same powers and duties as inspectors by the Commissioner, except that, instead of reporting to the Commissioner, they shall report in such manner and to such persons as the company in general meeting may direct.

(3) Officers and agents of the company shall incur the like penalties in case of refusal to produce any book or document required to be produced to inspectors so appointed, or to answer any question, as they would have incurred if the inspectors had been appointed by the Commissioner. R.O. 1958, c. 19, s. 117.

Report of
inspectors to be
evidence

121. (1) A copy of the report of any inspectors appointed under this Ordinance, authenticated by the seal of the company whose affairs they have investigated, shall be admissible in any legal proceeding as evidence of the opinion of the inspectors in relation to any matter contained in the report. R.O. 1958, c. 19, s. 118.

Appointment
and remunera-
tion of auditors

122. (1) Every company shall at each annual general meeting appoint an auditor to hold office until the next annual general meeting.

(2) Where an appointment of auditors is not made at an annual meeting, the Commissioner may, on the application of any member of the Company, appoint an auditor of the company for the current year, and fix the remuneration to be paid to him by the company for his services.

(3) A director or officer of the company shall not be appointed auditor of the company.

(4) A person, other than a retiring auditor, shall not be appointed auditor unless notice of an intention to nominate that person to the office of auditor has been given by a shareholder to the company not less than fourteen days before the annual general meeting; and the company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the shareholders, either by advertisement or in any other mode allowed by the articles, not less than seven days before the annual general meeting; except that if, after notice of the intention to nominate an auditor has been so given an annual general meeting is called for a date fourteen days or less after the notice has been given, the notice, though not given within the time required by this section, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the company may, instead of being sent or given within the time required by this section, be sent or given at the same time as the notice of the annual general meeting.

(5) The first auditors of the company may be appointed by the directors before the statutory meeting, and if so appointed shall hold office until the first annual general meeting, unless previously removed by a resolution of the shareholders in general meeting, in which case the shareholders at that meeting may appoint auditors.

(6) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor may act.

(7) The remuneration of the auditors of a company shall be fixed by the company in general meeting, except that the remuneration of any auditors appointed before the statutory meeting, or to fill any casual vacancy, may be fixed by the directors. R.O. 1958, c. 19, s. 119.

123. (1) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors.

Powers and
duties of
auditors

(2) The auditors shall make a report to the shareholders on the accounts examined by them, and on every balance-sheet laid before the company in general meeting during their tenure of office, and the report shall state

(a) whether they have obtained all the information and explanations they have required; and

(b) whether, in their opinion, the balance-sheet referred to in the report is properly drawn up so as to exhibit a correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.

(3) The balance sheet shall be signed on behalf of the board by two of the directors of the company, or if there is only one director, by that director, and the auditors' report shall be attached to the balance sheet, or there shall be inserted at the foot of the balance sheet a reference to the report, and the report shall be read before the company in general meeting, and shall be open to inspection by any shareholder; any shareholder is entitled to be furnished with a copy of the balance sheet and auditors' report at a charge not exceeding ten cents for every hundred words.

(4) Where any copy of a balance sheet that has not been signed as required by this section is issued, circulated or published, or if any copy of a balance sheet is issued, circulated or published without either having a copy of the auditors' report attached thereto or containing such reference to that report as is required by this section, the company, and every director, manager, secretary or other officer of the company who is knowingly a party to the default, is on conviction liable to a fine not exceeding two hundred and fifty dollars. R.O. 1958, c. 19, s. 120.

Rights of preference shareholders etc., as to receipt and inspection of reports, etc.

124. (1) Holders of preference shares and debentures of a company shall have the same right to receive and inspect the balance sheets of the company and the reports of the auditors and other reports as is possessed by the holders of ordinary shares in the company.

(2) This section does not apply to a private company or to a company registered before the 1st day of May, 1914. R.O. 1958, c. 19, s. 121.

Carrying on Business with less than the Legal Minimum of Members

Prohibition of carrying on business with fewer than five or, in the case of a private company, two members

125. (1) Where at any time the number of members of a company is reduced, in the case of a private company, below two, or, in the case of any other company, below five, and it carries on business for more than six months while the number is so reduced, every person who is a member of the company during that time and who is cognizant of the fact that it is carrying on business with fewer than two members, or five members, as the case may be, is severally liable for the

payment of the whole of the debts of the company contracted during that time, and may be sued for the same, without joinder in action of any other member. R.O. 1958, c. 19, s. 122.

Service and Authentication of Documents

126. (1) A document may be served on a company by leaving it at or sending it by post to the registered office of the company, or by serving the president, chairman, secretary or any director of the company, or by leaving the same at the residence of either of them, or with any adult person of his family or in his employ; or, if the company has no registered office, and has no known president, chairman, secretary or director, the Court may order such publication as it deems requisite to be made in the premises, and such publication shall be held to be due service upon the company. R.O. 1958, c. 19, s. 123.

Service of documents on company

127. (1) A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorized officer of the company, and need not be under its common seal. R.O. 1958, c. 19, s. 124.

Authentication of documents

Tables and Forms

128. (1) The forms in Schedule II, or forms as near thereto as circumstances permit, shall be used in all matters to which those forms refer. R.O. 1958, c. 19, s. 125.

Application and alteration of tables and forms

129. (1) The Commissioner may alter any of the tables and forms in Schedule I, and may alter or add to the forms in Schedule II. R.O. 1958, c. 19, s. 126.

Commissioner may alter tables and forms

130. (1) Any such table or form, when altered, shall be published in the *Yukon Gazette*, and thenceforth shall have the same force as if it were included in one of the schedules to this Ordinance; but no alteration made by the Commissioner in Table A in Schedule I shall affect any company registered before the alteration, or repeal, as respects that company, any portion of such table. R.O. 1958, c. 19, s. 127.

Alterations to be published in *Yukon Gazette*

Arbitrations

131. (1) A company may, by writing under its common seal, agree to refer and may refer to arbitration, in accordance with the *Arbitration Ordinance*, any existing or future difference between itself and any other company or person.

Arbitration between companies and others

(2) Companies, parties to the arbitration, may delegate to the arbitrator power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves, or by their directors or other managing body.

(3) Subject to any express provisions on the subject, all the provisions of the *Arbitration Ordinance* apply to arbitrations between companies and persons pursuant to this Ordinance. R.O. 1958, c. 19, s. 128.

Power to Compromise

Power to
compromise with
creditors and
members

132. (1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the Court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the Court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all the creditors or the class of directors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.

(3) In this section the expression "company" means any company liable to be wound up under this Ordinance. R.O. 1958, c. 19, s. 129.

Private Companies

Meaning of
"private com-
pany"

133. (1) For the purposes of this Ordinance, the expression "private company" means a company that by its memorandum or articles

- (a) restricts the right to transfer its shares;
- (b) limits the number of its members, exclusive of persons who are in the employment of the company, to fifty; and
- (c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.

(2) A private company may, subject to anything contained in the memorandum or articles, by passing a special resolution and by filing with the Registrar such a statutory declaration as the company, if a public company, would have had to file before commencing business, turn itself into a public company.

(3) Where two or more persons hold one or more shares in a company jointly they shall, for the purposes of this section, be treated as a single member.

(4) Where a private company

(i) has more than 50 members, exclusive of persons who are in the employment of the company; or

(ii) offers an invitation to the public to subscribe for any shares or debenture of the company,

every director or officer of the company knowingly contravening, permitting or authorizing such act is, without prejudice to any other liability, liable to a fine not exceeding two hundred and fifty dollars for every day during which the contravention continues. R.O. 1958, c. 19, s. 130; 1966 (1st) c. 10, s. 1.

PART V

INCORPORATION OF MINING COMPANIES WITHOUT ANY PERSONAL LIABILITY

134. (1) The memorandum of a company incorporated or reincorporated under this Ordinance, the objects whereof are restricted to acquiring, managing, developing, working and selling mines (including coal mines), mineral claims, placer mining claims, mining properties and petroleum claims, and the winning, getting, treating, refining and marketing of mineral, coal or oil therefrom, may contain a provision that no personal liability shall attach to any subscriber or holder of shares in a company so incorporated, and the certificate of incorporation issued under section 25 of this Ordinance shall state that the company is specially limited under this section.

Mining companies with specially limited liability on shares

(2) Every company, whose objects are so restricted shall be deemed to have the following, but, except as in this Ordinance otherwise expressed, no greater powers:

Powers of non-personal liability mining companies

(a) to obtain by purchase, lease, hire, discovery, location or otherwise, and hold, within the Territory, mines, mineral claims, mineral leases, prospects, mining land and mining rights of every description, and to work, develop, operate and turn the same to account, and to

- sell or otherwise dispose of the same or any of them, or any interest therein ;
- (b) to dig for, raise, crush, wash, smelt, assay, analyse, reduce, amalgamate and otherwise treat gold, silver, coal, copper, lead ores or deposits, and other minerals and metallic substances and compounds of all kinds, whether belonging to the company or not, and to render the same merchantable, and to buy, sell and deal in the same or any of them ;
 - (c) to carry on the business of a mining, smelting, milling and refining company in all or any of its branches ;
 - (d) to acquire by purchase, lease, hire, exchange or otherwise, such timber lands or leases, timber claims, licences to cut timber, surface rights and rights-of-way, water rights and privileges, mills, factories, furnaces for smelting and treating ores and refining metals, buildings, machinery, plant or other real or personal property as may be necessary for or conducive to the proper carrying out of any of the objects of the company ;
 - (e) to construct, maintain, alter, make, work and operate on the property of the company, or on property controlled by the company, any canals, trails, roads, ways, tramways, bridges and reservoirs, dams, flumes, race and other ways, water-courses, aqueducts, wells, wharves, piers, furnaces, sawmills, crushing-works, smelting works, concentrating works, hydraulic works, coke ovens, electrical works and appliances, warehouses, buildings, machinery, plant, stores and other works and conveniences which may seem conducive to any of the objects of the company, and, with the consent of the shareholders in general meeting, to contribute to, subsidize or otherwise aid or take part in any such operation, though constructed and maintained by any other company or persons outside of the property of the company ; and to buy, sell, manufacture and deal in all kinds of goods, stores, implements, provisions, chattels and effects required by the company or its workmen and servants ;
 - (f) build, acquire, own, charter, navigate and use steam and other vessels for the purposes of the company ;
 - (g) to take, acquire and hold as the consideration for ores, metals or minerals sold or otherwise disposed of, or for goods supplied or for work done by contract or otherwise, shares, debentures, bonds or other securities of or in any other company the objects of which are restricted as herein aforesaid, and to sell or otherwise dispose of the same ;

- (h) to enter into any arrangement for sharing profits, union of interests or co-operation with any other person or company carrying on, or about to carry on, any business or transaction which a company specially limited under this section is authorized to carry on ;
- (i) to purchase, or otherwise acquire and undertake all or any of the assets, business, property, privileges, contracts, rights, obligations and liabilities of any person or company carrying on any part of the business which a company specially limited under this section is authorized to carry on, or possessed of property suitable for the purposes thereof ;
- (j) to borrow or raise money for the purposes of the company, but so that the amount so borrowed or raised shall not, without the sanction of a general meeting of the company, exceed one-quarter of the amount of the paid up capital for the time being, and for the purpose of securing such money and interest, or for any other purpose, to mortgage or charge the undertaking or all or any part of the property of the company, present or after acquired ; and to create, issue, make, draw, accept and negotiate perpetual or redeemable debentures or debenture stock, promissory notes, bills of exchange, bills of lading, warrants, obligations and other negotiable and transferable instruments ; except, however, that the restriction in this subsection as to borrowing without the sanction of a general meeting shall not be deemed to be imperative, and shall in no way limit, control or affect any power of borrowing vested in the board of directors of the company or of the company under the memorandum, articles or by-laws of the company ;
- (k) to distribute any of the property of the company among the members in specie ;
- (l) to sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with the undertaking or the whole or any part of the property and rights of the company, with power to accept as the consideration any shares, stocks or obligations of any company ; except, however, that in case of a sale for shares in a company other than a non-personal liability company, such shares shall be fully paid up ; and
- (m) to do all such other things as are incidental or conducive to the attainment of the foregoing objects. R.O. 1958, c. 19, s. 131.

Shares to be specially marked

135. (1) Where a certificate of incorporation incorporating any such company, or a licence or certificate of registration to any extra-territorial company, has been issued containing the provisions mentioned in section 134, every certificate of shares or stock issued by the company shall bear upon the face thereof, distinctly written or printed in red ink, after the name of the company, the words "issued under section 134, respecting mining companies, of the *Companies Ordinance*", and where such shares or stock are issued subject to further assessments the word "assessable," or if not subject to further assessment the word "non-assessable," as the case may be. R.O. 1958, c. 19, s. 132.

Charter, prospectuses, and other documents of such company to be specially marked

136. (1) Every company, whose objects are restricted pursuant to section 134 shall have written or printed on its charter, prospectuses, stock certificates, bonds, contracts, agreements, notices, advertisements and other official publications, and in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods purporting to be signed by or on behalf of the company, and in all bills of parcels, invoices, receipts and letter heads of the company, immediately after or under the name of such company, and shall have engraved upon its seal the words "Non-Personal Liability," and such words shall be the last words of its name; and every such company that refuses, or knowingly neglects, to comply with this section shall incur a penalty of twenty dollars for every day during which such name is not so kept written or printed, recoverable upon summary conviction; and every director and manager, secretary and officer of the company who knowingly and wilfully authorizes or permits such default shall be liable to the like penalty. R.O. 1958, c. 19, s. 133.

Enforcement of payment of assessment on such shares

137. (1) In the event of any call or calls on assessable shares in a company, whose objects are restricted pursuant to section 134, remaining unpaid by the subscriber thereto, or holder thereof, for a period of sixty days after notice and demand of payment, such shares may be declared by the directors to be in default, and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash, by giving notice of such sales in some newspaper published or circulating in the city or district where the principal office of the company is situated, for a period of one month.

(2) The notice required by this section shall contain the number of the certificate or certificates of such shares, and the number of shares, the amount of the assessment due and unpaid, and the time and place of sale; and in addition to

the publication of the notice, notice shall be personally served upon such subscriber or holder by registered letter mailed to his last known address; and if the subscriber or holder of such shares fails to pay the amount due upon such shares, with interest upon the same at the rate provided by the articles, by-laws or regulations of the company, or where no rate is so fixed, at the same rate as is provided by statute in other cases where interest is by law payable and the rate is not agreed upon, and cost of advertising, before the time fixed for such sale, the secretary shall proceed to sell the same or such portion thereof as shall suffice to pay such assessment, together with such interest and cost of advertising; except that if the price of the share so sold exceeds the amount due with said interest and cost thereon, the excess thereof shall be paid to the defaulting subscriber or holder. R.O. 1958, c. 19, s. 134.

138. (1) No shareholder or subscriber for shares in any company, whose objects are restricted pursuant to section 134 shall be personally liable for non-payment of any calls made upon his shares, nor shall such shareholder or subscriber be personally liable for any debt contracted by the company, or for any sum payable by the company. R.O. 1958, c. 19, s. 135.

Liability of shareholder on such shares

139. (1) Wherever any shares have been, prior to the 1st day of May, 1914, issued by any company duly incorporated under any Ordinance as fully paid-up shares, either at a discount or in payment for any mine, mineral claim or mining property purchased or acquired by such company, or for the acquiring whereof such company has been incorporated, all such shares shall, except as to any debts contracted by the company before the 1st day of May, 1914, in regard to which the liability in such shares shall be the same as if this Ordinance had not been passed, be deemed and held to be fully paid up, and the holder thereof shall be subject to no personal liability thereon, in the same manner as if the memorandum of association of the company had contained the provision. R.O. 1958, c. 19, s. 136.

Existing companies before revision of 1914

140. (1) Any company with specially limited liability on shares heretofore incorporated under an Ordinance respecting mining companies, being Chapter 60 of the Consolidated Ordinances of the Yukon Territory, 1902, and the powers, rights and liabilities of any such company and of its shareholders, shall be and remain specially limited as provided in those sections and all shares of any such company heretofore issued, or that may hereafter be issued, as full paid and non-assessable, as therein provided, shall at all times be

Shares in companies incorporated under Chapter 60 of Consolidated Ordinances, 1902, to be at all times fullpaid and non-assessable

deemed to be full-paid and non-assessable. R.O. 1958, c. 19, s. 137.

Reincorporation
as an ordinary
limited company

141. (1) In case a resolution authorizing reincorporation and registration under this Ordinance, and authorizing the execution by the directors on behalf of the shareholders of the company of a memorandum of association for the objects specified in such resolution, is passed at a general meeting of the shareholders of the company duly called specially for the purpose, at which meeting at least two-thirds in value of all the shares of the company are represented by the holders thereof in person or by proxy and vote in favour of such resolution, any company heretofore or hereafter incorporated, subject to section 134 of this Ordinance or the like provisions of any former Ordinance, and being at the time of registration a subsisting and valid company, and upon payment to the Registrar of the prescribed fee is entitled to receive from the Registrar a certificate of the reincorporation and registration of the company under this Ordinance as an unlimited company, or as a company limited by shares, or as a company limited by guarantee, for the objects and purposes to be set out in the memorandum of association executed in pursuance of such resolution, and thereupon the old company shall, as such company, cease to exist, and all the rights, property and obligations of the former company shall thereby be deemed to have been transferred to the new company, and all proceedings may be continued or commenced by or against the new company that might have been continued or commenced by or against the old company, and it shall not be necessary in the certificate of reincorporation or registration to set out the names of the shareholders.

(2) After such reincorporation and registration the company shall be governed in all respects by this Ordinance, except that the liabilities of the shareholders to creditors of the old company shall remain as at the time of reincorporation; and of such reincorporation the certificate shall be conclusive evidence, as well as conclusive evidence of the due registration and observance of all statutory requirements with respect of registration or incorporation in force prior to the passing of this Ordinance.

(3) Where an existing company applies for registration under this section, the directors may, in and by the memorandum of association executed pursuant to and conforming to the resolution of the company authorizing the execution thereof, extend, vary or limit the powers and objects of the company, and the certificate of registration under this section shall be to the new company by a different name than that of the old company.

(4) Where the existing company is registered under this section, the capital of the company may be increased or decreased to any amount which may be fixed by the resolution of the company authorizing such registration; but where increased the prescribed fees for increase of capital shall be paid to the Registrar.

(5) The said resolution shall prescribe the manner in which the shares in the new company are to be allotted to holders of shares in the old company, and shall prescribe to what amount, if any, the shares in the new company shall be assessable, and generally the terms upon which the new shares shall be deliverable to the allottees; except, however, that no shareholder in the old company shall be liable upon any shares in the new company unless he accepts the allotment to him of the same.

(6) The memorandum of association may be accompanied by articles of association, in accordance with section 19 of this Ordinance, and such articles of association must be authorized by the resolution authorizing registration under this section.

(7) Whenever the Registrar considers that public notice of an intended application for reincorporation and registration under this section should be given, he shall require notice to be published in the *Yukon Gazette*, or otherwise, as he thinks proper.

(8) The Registrar may, in any case where he thinks it proper so to do, refuse reincorporation and registration; but the company may appeal from the decision of the Registrar under this section to the Court, or a judge thereof in Chambers, by motion.

(9) Every certificate of registration issued under this section shall be published in one issue of the *Yukon Gazette* and in one issue of a newspaper circulating in the place in which the registered office of the company is situate. R.O. 1958, c. 19, s. 138.

PART VI

LICENSING AND REGISTRATION OF EXTRA-TERRITORIAL COMPANIES

General

142. (1) Every extra-territorial company, other than a company incorporated under authority of an Act of the Parliament of Canada, having gain for its purpose and object within the scope of this Ordinance is hereby required to be

Extra-territorial companies required to become licensed or registered

licensed or registered under this or some former Ordinance, and no company, firm, broker or other person shall, as the representative or agent of or acting in any other capacity for any such extra-territorial company, carry on any of the business of an extra-territorial company within the Territory until such extra-territorial company shall have been so licensed or registered.

Extra-territorial
companies
heretofore
registered

(2) This section applies to an extra-territorial company notwithstanding that it was previously registered as a foreign company under the provisions of any other Ordinance.

Dominion
companies must
be registered

(3) Every such company incorporated under authority of an Act of the Parliament of Canada, is also required to be registered under this or some former Ordinance, but the above provisions restrictive of its carrying on business before licensing or registration do not apply to such company. R.O. 1958, c. 19, s. 139.

Registrar's
power to dis-
pense with filing
of documents

143. (1) The Registrar may, for good cause shown, dispense with the filing, by an extra-territorial company proceeding to obtain a licence or registration under this Part, of one or more of the documents that compose its charter and regulations, and may allow to be substituted therefor a list of the documents so dispensed with, accompanied by a statement of the reasons for dispensing with the originals, and, if he so require, by such memorandum of the contents of such originals as he may deem sufficient. R.O. 1958, c. 19, s. 140.

Rights of such
company to sue,
hold land, etc.

144. (1) Any extra-territorial company licensed or registered under this or some former Ordinance may sue and be sued in its corporate name, and, if authorized to do so by its charter and regulations, may acquire and hold lands in the Territory by gift, purchase or as mortgagees or otherwise, as fully and freely as private individuals, and may sell, lease, mortgage or otherwise alienate the same. R.O. 1958, c. 19, s. 141.

Rights and
duties of
registered
companies

145. (1) Every extra-territorial company registered as a company under this or some former Ordinance shall, subject to the provisions of its charter and regulations, and of this Ordinance, have and may exercise all the rights, powers and privileges by this Ordinance granted to and conferred upon companies incorporated thereunder; and every such extra-territorial company and the directors, officers and members thereof shall, save as in this Ordinance otherwise provided, be subject to and shall, observe, carry out and perform every act, matter, obligation and duty by this Ordinance prescribed and

imposed upon companies incorporated thereunder, or upon the directors, officers and members thereof. R.O. 1958, c. 19, s. 142.

146. (1) Every extra-territorial company registered under this Part shall, in and by the power of attorney hereinafter prescribed empower its attorney to issue and transfer shares of the company.

Power to issue and transfer shares

(2) Every such extra-territorial company shall, at its head office or chief place of business in the Territory, provide and keep, in form and manner provided by section 32, a register of all shares issued at such head office or chief place of business, and of all transfers of shares in the company made within the Territory and presented for record at such head office or chief place of business; and every lawful transfer of shares made by a member shall, upon the entry and record on such register, be valid and binding to all intents and purposes; and every act, matter or thing lawfully done by the attorney of the company pursuant to this section shall be as valid and binding in all respects as if done by the company or the directors, managers or officers of the company, pursuant to the provisions of the charter and regulations of the company and of this Ordinance in that behalf. R.O. 1958, c. 19, s. 143.

Register

147. (1) Every extra-territorial company duly incorporated under the laws of the United Kingdom, or of the late Province of Canada, or of any of the provinces of Canada, registered prior to the 1st day of May, 1914, in the Territory as a foreign company under the provisions of any Ordinance, may surrender to the Registrar the certificate of registration of the company issued under such Ordinance and obtain from him a licence under the provisions of this Part; and for the purpose of obtaining such licence the surrender of such certificate of registration and the filing of the power of attorney prescribed by paragraph 155(c) shall be deemed to be a sufficient compliance with the requirements of this Part. R.O. 1958, c. 19, s. 144.

Surrender of certificate of registration for licence

148.(1) The licence issued in pursuance of section 147 to an extra-territorial company heretofore registered as a foreign company need not contain in detail the objects of the company, but may incorporate them by reference to the former certificate of registration of the company. R.O. 1958, c. 19, s. 145.

What certificate of registration or licence to extra-territorial companies to contain

149. (1) Every extra-territorial company registered in the Territory before the passage of this Ordinance, as a foreign

What extra-territorial companies subject to the Ordinance

company under the provisions of any Ordinance in that behalf, other than a company entitled to obtain and that has obtained a licence under some former Ordinance, may obtain a licence under this Part, and the directors, officers and members thereof, shall be subject to and shall observe, carry out and perform every act, matter, obligation and duty by this Ordinance prescribed and imposed upon companies incorporated thereunder, or upon the directors, officers and members thereof. R.O. 1958, c. 19, s. 146.

Security for costs by extra-territorial company

150. (1) In case of any suit or other proceeding being commenced by any extra-territorial company against any person or corporation residing or carrying on business in the Territory, such extra-territorial company shall furnish security for costs, if demanded. R.O. 1958, c. 19, s. 147.

Commissioner's power to suspend or revoke licence

151. (1) The Commissioner may, by order published in three consecutive issues of the *Yukon Gazette*, suspend or revoke and make null and void any licence granted or any registration effected under this or some former Ordinance to any company that refuses or fails to keep a duly appointed attorney within the Territory, or to comply with any of the provisions of this Part; and, notwithstanding such suspension or revocation, the rights of creditors of the company shall remain as at the time of such suspension or revocation. R.O. 1958, c. 19, s. 148.

Application of certain sections to extra-territorial companies.

152. (1) Sections 102 to 111 of this Ordinance apply to every extra-territorial company. R.O. 1958, c. 19, s. 149.

Extra-territorial companies may obtain benefit of non-personal liability

153. (1) The licence or certificate of registration to any extra-territorial company whose objects are restricted as mentioned in subsection 134(1) may, if so applied for in the application for such licence, or in the petition for such registration, contain the provision that the company is specially limited as in that section expressed; and in such case the provisions of sections 134 to 138 apply to such extra-territorial company. R.O. 1958, c. 19, s. 150.

Licensing of Extra-territorial Companies

Companies entitled to licence

154. (1) Any extra-territorial company duly incorporated under the laws of the United Kingdom, the former Province of Canada, any province of Canada or the Parliament of Canada that is duly authorized by its charter and regulations to carry out or effect any of the purposes or objects to which the legislative authority of the Council extends, may obtain a licence from the Registrar authorizing it to carry on busi-

ness within the Territory on compliance with this Ordinance, and on payment of the prescribed fees shall, subject to the provisions of the charter and regulations of the company and to the terms of the licence, thereupon have the same powers and privileges in the Territory as if incorporated under this Ordinance. R.O. 1958, c. 19, s. 151.

155. (1) Before the issue of a licence to any such extra-territorial company, the company shall file in the office of the Registrar

Proceedings to
obtain such
licence

- (a) a true copy of the charter and regulations of the company, verified in manner satisfactory to the Registrar, and showing that the company by its charter has authority to carry on business in the Territory; and if any instrument is not written in the English language, a notarially certified translation thereof,
- (b) an affidavit or statutory declaration that the company is still in existence and legally authorized to transact business under its charter;
- (c) a duly executed power of attorney, under its common seal, empowering some person therein named, and residing in the place where the head office of the company in the Territory is situate, to act as its attorney and to sue and be sued, plead or be impleaded, in any Court, and generally, on behalf of such company and within the Territory, to accept service of process and to receive all lawful notices, and to do all acts and to execute all deeds and other instruments relating to the matters within the scope of the power of attorney and of the company to give to its attorney; and such company may from time to time, by a new power of attorney duly executed and filed, appoint another attorney within the Territory to replace the former attorney; the power of attorney may be according to a form approved by the Registrar;
- (d) notice of the place where the head office without the Territory is situate;
- (e) notice of the place in the Territory where the head office of the company is proposed to be situate;
- (f) the amount of the capital of the company; and
- (g) the number of shares into which it is divided. R.O. 1958, c. 19, s. 152.

156. (1) The licence shall set forth

Contents of
licence

- (a) the corporate name of the company;
- (b) the place where the head office of the company is situate;

- (c) the place where the head office of the company in the Territory is situate;
- (d) the name, address and occupation of the attorney of the company;
- (e) the amount of the capital of the company;
- (f) the number of shares into which it is divided;
- (g) the time of the existence of the company, if incorporated for a limited period;
- (h) in the case of a limited company, that the company is limited; and
- (i) in the case of a mining company, to which the non-personal liability sections in Part V apply, that the liability of the members is so specially limited;

Publication and such certificate together with a statement by the Registrar of the objects for which the company has been established and licensed shall be published at the expense of the company once in the *Yukon Gazette* or in a newspaper published in the Territory at or nearest the place that is to be the chief place of business of the company; and such licence shall be conclusive evidence of compliance with all the requirements of this Ordinance.

(2) Notice of the appointment of a new attorney or of the company ceasing to carry on business in the Territory shall be published in the manner provided in subsection (1). R.O. 1958, c. 19, s. 153.

Evidence of licence

157. (1) The licence, or a copy thereof certified under the hand and seal of the Registrar, or a copy of the *Yukon Gazette* containing such licence, shall be sufficient evidence in any proceeding in any Court in the Territory of the due licensing of the company aforesaid. R.O. 1958, c. 19, s. 154.

Substitutional service

158. (1) If the power of attorney becomes invalid or ineffectual for any reason, or if other service cannot be readily effected, the Court or judge may order substitutional service of any process or proceeding upon the company to be made by such publication as is deemed requisite to be made for at least four weeks in at least one newspaper; and such publication shall be held to be due service upon the company of such process or proceeding. R.O. 1958, c. 19, s. 155.

Registration of Extra-territorial Companies

159. (1) Any other extra-territorial company, duly authorized by its charter and regulations to carry out or effect any of the purposes or objects to which the legislative authority of the Council extends, may register the company as a company under this Ordinance on compliance with the provisions of this Part, and on payment to the Registrar of the prescribed fees and such company shall, subject to the provisions of the charter and regulations of the company and of this Ordinance, thereupon have the same powers and privileges in the Territory as if incorporated under this Ordinance. R.O. 1958, c. 19, s. 156.

Power for
extra-territorial
company to
register

160. (1) Any extra-territorial company desiring to become registered as a company under this Ordinance may petition therefor under the common seal of the company, and with such petition shall file in the office of the Registrar

Proceedings by
such company to
obtain registra-
tion

- (a) a true copy of the charter and regulations of the company, verified in manner satisfactory to the Registrar, and showing that the company by its charter has authority to carry on business in the Territory; and if any instrument is not written in the English language, a notarially certified translation thereof;
- (b) an affidavit or statutory declaration that the said company is still in existence and legally authorized to transact business under its charter;
- (c) a duly executed power of attorney, under its common seal, empowering some person therein named, and residing in the place where the head office of the company in the Territory is situate, to act as its attorney and to sue and be sued, plead or be impleaded, in any Court, and generally, on behalf of such company and within the Territory, to accept service of process and to receive all lawful notices, to issue and transfer shares or stock, and to do all acts and to execute all deeds and other instruments relating to the matters within the scope of the power of attorney and of the company to give to its attorney; and such company may from time to time, by a new power of attorney duly executed and deposited, appoint another attorney within the Territory to replace the attorney formerly appointed; the power of attorney may be according to a form approved of and provided by the Registrar;
- (d) notice of the place where the head office of the company without the Territory is situate;
- (e) notice of the place in the Territory where the head office of the company is proposed to be situate;

- (f) the amount of the capital of the company ; and
- (g) the number of shares into which it is divided. R.O. 1958, c. 19, s. 157.

Powers of attorney by extra-territorial companies seeking registration

161. (1) The Registrar may accept from any extra-territorial company, proceeding to obtain registration under section 160, a power of attorney which varies in substance from that called for by paragraph 160(c) in that it omits to empower the attorney named therein to issue and transfer shares or stock, upon its being shown to his satisfaction either that the company is not a public company the shares or stock whereof are upon the market, or that although the company is a public company and the shares or stock thereof are upon the market, yet, either owing to the small quantity of the shares or stock of the company held in the Territory and to the fact that the company does not propose to place any of the shares or stock upon the market in the Territory, or to the fact that the consent of the holders of shares or stock within the Territory has been obtained, the preponderance of convenience is in favour of exempting the company from empowering their attorney in the manner specified.

(2) The certificate of registration issued to the company under section 162 shall state, after the name, address and occupation of the attorney, that such attorney is not empowered to issue or transfer shares or stock ; and the company shall thereupon be relieved from compliance with section 146 R.O. 1958, c. 19, s. 158.

Contents of certificate

162. (1) The Registrar shall issue to any extra-territorial company registered under this Ordinance a certificate of registration which shall set forth

- (a) the corporate name of the company ;
- (b) the place where the head office of the company is situate ;
- (c) the place where the head office of the company in the Territory is situate ;
- (d) the name, address and occupation of the attorney of the company ;
- (e) the amount of the capital of the company ;
- (f) the number of shares into which it is divided, and the amount of each share ;
- (g) the time of the existence of the company, if incorporated for a limited period ;
- (h) in the case of a limited company, that the company is limited ; and

- (i) in the case of a mining company, to which the non-personal liability sections in Part V apply, that the liability of the members of the company is so specially limited;

and such certificate, together with a statement by the Registrar of the objects for which the company has been established and registered, shall be published at the expense of the company once in the *Yukon Gazette* or in a newspaper published in the Territory at or nearest the place that is to be the chief place of business of the company; and such certificate shall be conclusive evidence of compliance with all the requirements of this Ordinance.

Publication

(2) Notice of the appointment of a new attorney, or of the company ceasing to carry on business in the Territory, shall be published as published in subsection (1). R.O. 1958, c. 19, s. 159.

163. (1) The certificate of registration or any copy thereof certified under the hand and seal of the Registrar, or a copy of the *Yukon Gazette* containing such certificate of registration, shall be sufficient evidence in any proceeding in any Court in the Territory of the due registration of the company. R.O. 1958, c. 19, s. 160.

Evidence of such registration

164. (1) If the power of attorney becomes invalid or ineffectual from any reason, or if other service cannot readily be effected, the Court or judge may order substitutional service of any process or proceeding upon the company to be made by such publication as is deemed requisite to be made for at least four weeks in at least one newspaper; and such publication shall be held to be due service upon the company of such process or proceeding. R.O. 1958, c. 19, s. 161.

Substitutional service on such company

165. (1) No act, matter, disposition or thing affecting the corporate rights and property of the company within the Territory, made, done or executed by any extra-territorial company entitled to registration only under this Part, although valid by the laws of the country or state under which such company is incorporated, or permissible under its original corporate powers, shall be of any force or effect, or enforceable by the company or any one on its behalf by action in any Court in the Territory, unless such act, matter, disposition or thing be valid and permissible by the laws of the Territory. R.O. 1958, c. 19, s. 162.

Provision requiring all transactions of an unregistered company to conform to the laws of the Territory

Disabilities and Penalties

Penalty for
doing business
without licence

166. (1) Where any extra-territorial company, without being licensed or registered pursuant to this or some former Ordinance carries on in the Territory any part of its business, such company is liable to a penalty of fifty dollars for every day upon which it so carries on business. R.O. 1958, c. 19, s. 163.

Unlicensed
company not
capable of
maintaining
action

167. (1) So long as any extra-territorial company remains unlicensed or unregistered under this or some former Ordinance, it shall not be capable of maintaining any action, suit or other proceeding in any Court in the Territory in respect of any contract made in whole or in part within the Territory in the course of or in connection with its business, contrary to the requirements of this Part; except, however, that upon the granting or restoration of the licence or the issuance or restoration of the certificate of registration or the removal of any suspension of either licence or the certificate, any action, suit or other proceeding may be maintained as if such licence or certificate had been granted or restored or such suspension removed before the institution of any such action, suit or other proceedings. R.O. 1958, c. 19, s. 164.

Cannot hold
land.

168. (1) No extra-territorial company required by this Ordinance to be licensed or registered is capable of acquiring or holding lands or any interest therein in the Territory, or registering any title thereto under the *Land Titles Act*, unless duly licensed or registered under this or some former Ordinance; except that the granting of a licence or certificate of registration shall operate as a removal of any disability under this section R.O. 1958, c. 19, s. 165.

Penalty for
agent of unlic-
ensed or unregis-
tered company
carrying on
business.

169. (1) Where any company, firm, broker or other person acting as the agent or representative of or in any other capacity for an extra-territorial company not licensed or registered under this or some former Ordinance carries on any of its business contrary to the requirements of this Part, such company, firm, broker, agent or other person is liable to a penalty of twenty dollars for every day it, he or they shall so carry on such business. R.O. 1958, c. 19, s. 166.

Power to remit
penalties

170. (1) The Commissioner may, when or after a licence has been granted or a certificate issued, remit in whole or part any penalty incurred under this Ordinance by the company receiving the licence or the certificate, or by any representative or agent thereof, and may also remit in whole or part the costs of any action or proceeding commenced for

the recovery of any such penalty, and thereupon the whole or such part of the costs, as the case may be, are not recoverable. R.O. 1958, c. 19, s. 167.

171. (1) The penalties imposed by this Part are recoverable only by action at the suit of or brought with the written consent of the Commissioner, and any action or proceeding to recover any such penalty shall be commenced within six months after the liability for such penalty has been incurred, and not afterward; except that in any action to recover any such penalty the onus of proving that a company is duly licensed or registered under this or some former Ordinance shall be upon the defendant. R.O. 1958, c. 19, s. 168.

Penalties only recoverable by or with consent of Commissioner

172. (1) No act, matter, contract, agreement, undertaking or proceeding of an extra-territorial company carrying on business in the Territory prior to the passage of this Ordinance shall be attacked, nor shall the same be invalidated, nullified or held so to be by reason only of the fact that the company, or the directors, officers or members thereof, or any of them, may hereafter become liable to a penalty for neglect to observe any provision of this Ordinance. R.O. 1958, c. 19, s. 169.

Acts of former companies not invalidated by default of directors

173. (1) The taking of orders by travellers for goods, wares or merchandise to be subsequently imported into the Territory to fill such orders, or the buying or the selling of such goods, wares or merchandise by correspondence, if the company has no resident agent or representative and no warehouse, office or place of business in the Territory, the onus of proving which shall in any prosecution under this Part rest on the accused, shall not be deemed to be carrying on business within the meaning of this Part. R.O. 1958, c. 19, s. 170.

Sales by travellers or by correspondence

174. (1) Sections 166, 167 and 168 do not apply to any extra-territorial company incorporated under the authority of any Act of the Parliament of Canada. R.O. 1958, c. 19, s. 171.

PART VII

PROCESS AGAINST UNREGISTERED EXTRA-TERRITORIAL COMPANIES

175. (1) In this Part, the word "company" means any unlicensed and unregistered extra-territorial company that has done, entered into or made any act, matter, contract or

Definition of "company" in this Part

disposition giving to any person or company a right of action in any court. R.O. 1958, c. 19, s. 172.

Service of
process on
unregistered
company

176. (1) Any legal proceeding duly issued at the instance or suit of any person by the Court or Magistrate's Court, or officer of such court, may be served as against the company by delivering the same to the clerk of the court. R.O. 1958, c. 19, s. 173.

Publication of
such process

177. (1) It shall be the duty of such clerk to cause to be inserted in the four regular issues of the *Yukon Gazette*, consecutively, following the delivery of such process to him, a notice of process with a memorandum of the date of delivery, stating generally the nature of the relief sought and the time limited and the place mentioned for entering an appearance. R.O. 1958, c. 19, s. 174.

When such
service valid

178. (1) After the advertisement has appeared in such four issues, the delivery of such process to the clerk shall be deemed, as against the defendant company, to be good and valid service of such process. R.O. 1958, c. 19, s. 175.

Procedure on
entering a
judgment
against company

179. (1) In entering up, applying for or obtaining a judgment by default, or for the purpose of taking any proceeding consequent or following on such service, it shall not be necessary, so far as such service is concerned, to file any affidavit, but the plaintiff shall, instead thereof, file a copy of each of the four issues of the *Yukon Gazette* in which the advertisement shall have appeared; except that when service of process has been effected as mentioned in section 178, the plaintiff shall prove the amount of the debt or damages claimed by him before a judge of the Court or a magistrate or before the clerk, as a judge of the said Court, or magistrate may direct; and the making of such proof shall be a condition precedent to the plaintiff obtaining judgment. R.O. 1958, c. 19, s. 176.

Averment in
action against
company

180. (1) In any action, suit or proceeding against the company, it shall not be necessary to aver in any pleading, or to adduce any evidence, that the company was organized or incorporated under the laws of any foreign state or jurisdiction, or that the company has power under its organization or incorporation to make the contract or incur the liability in respect of which the action, suit or proceeding against the company shall be brought. R.O. 1958, c. 19, s. 177.

Ordinance not to
affect remedies
against compa-
nies

181. (1) Nothing in this Part shall be deemed to limit, abridge or take away any legal right, recourse or remedy

against a company not therein enacted or recognized, nor to absolve or lessen any obligation, rule or duty imposed by law on a company. R.O. 1958, c. 19, s. 178.

PART VIII

PUBLIC UTILITIES

182. (1) This Part applies to all applications for incorporation of companies intended to operate or control any public or municipal franchise, undertaking or utility, including water, gas, electric and telephone companies, or that may require for its purposes the erection of any permanent structure in or upon any highway, stream or adjoining navigable waters, and to such companies when incorporated. R.O. 1958, c. 19, s. 179.

Applies to public utility companies

183. (1) With the application for incorporation the applicants shall file with the Registrar and produce to the Commissioner:

Evidence to accompany application

- (a) evidence that the proposed capital is sufficient to carry out the objects for which the company is to be incorporated, that such capital has been subscribed or underwritten and that the applicants are likely to command public trust and confidence in the undertaking;
- (b) a detailed description of the plant, works and intended operations of the company, and an estimate of their cost;
- (c) a by-law of every municipality in which the operations of the company are to be carried on authorizing the execution thereof in the manner set out in the detailed description above referred to;
- (d) if the undertaking is to be carried on in an unorganized district a letter from the Commissioner approving of the undertaking; and
- (e) if it is proposed that the company shall acquire any plant, works, land, undertaking, good will, contract or other property or assets, a detailed statement of the nature and value thereof. R.O. 1958, c. 19, s. 180.

184. (1) The Commissioner may refer the application and all statements, evidence and material filed thereon to engineers, architects, valuers or other experts for consideration, investigation and report regarding the public necessity for the undertaking of the company, the amount of capital required therefor, the value of any plant, works, lands, under-

Reference to engineers or other experts to report

taking, good will, contract or other property or assets to be acquired by the company and any other matter that may appear to be in the public interest regarding such undertaking. R.O. 1958, c. 19, s. 181.

Public utility
companies to be
incorporated by
memorandum

185. (1) The incorporation of any company hereafter formed for the purpose of operating any public utility under this Part, either solely or in conjunction with other objects, shall be by memorandum and articles of association under Part II. R.O. 1958, c. 19, s. 182.

186. (1) The provisions of this Part shall, so far as applicable, apply to any such company. R.O. 1958, c. 19, s. 183.

187. (1) The provisions of this Part continue to apply to any company previously formed by letters patent. R.O. 1958, c. 19, s. 184.

Power to pass
by-laws

By-laws to be
approved by
Commissioner
and published

188. (1) The company may pass by-laws regarding the control and management of its undertakings, its dealings with the public it is incorporated to serve, the fixing and collection of tolls, charges, rates or levies for the public service given by the company; except that no such by-laws shall have any force or effect or be acted upon until approved by the Commissioner and, in the case of by-laws affecting its dealings with the public, the fixing and collection of tolls, charges, rates or levies for the public service given by the company, published twice in a public newspaper at the place where the undertaking of the company is carried on or as near thereto as may be and in the *Yukon Gazette*. R.O. 1958, c. 19, s. 185.

Annual report to
Registrar

189. (1) In addition to other returns that may be required by this or any other Ordinance, the company shall on or before the first day of March in each year make a report to the Registrar under oath of the president and secretary, which shall specify,

- (a) the cost of work, plant and undertaking of the company;
- (b) the amount of its capital, and the amount paid thereon;
- (c) the amount received during the year from tolls, levies, rates and charges and all other sources, stating each separately;
- (d) the amount and rate of dividends paid;
- (e) the amount expended for repairs; and

(f) a detailed description of any extension or improvement of the works or of any new works proposed to be undertaken in the current year, together with an estimate of the cost thereof. R.O. 1958, c. 19, s. 186.

190. (1) The books of account of the company shall be at all reasonable times open to the inspection and examination of any shareholder. R.O. 1958, c. 19, s. 187.

Books open to inspection

191. (1) The Commissioner, if he has any doubts as to the correctness or truth of any statements furnished by the company, may appoint a person to inspect and examine such books, and every person so appointed may take copies or extracts from the same, and may require and receive from the keeper of such books, and also from the president and each of the directors of the company, and all other officers and servants thereof, all such information as to such books and the affairs of the company generally, as the person so appointed deems necessary for the full and satisfactory investigation into and report upon the state of affairs of the company, so as to enable him to ascertain the correctness of statements furnished by the company. R.O. 1958, c. 19, s. 188.

Commissioner may appoint inspector

192. (1) The Commissioner may extend the term of existence of any company incorporated for a limited period under this Ordinance, for such further period as by order made previous to the expiry of such period, he may direct, and the provisions of this Ordinance having regard to the expiration of the term of existence of a company shall thereupon apply to such term as so extended. R.O. 1958, c. 19, s. 189.

Term of company's existence may be extended

193. (1) A company incorporated for any of the purposes to which this Part applies has, respectively, full power to construct, maintain, complete and operate works and apparatus for the production, sale and distribution of gas, water, electricity or other products for the purpose of light, heat or power or of operating a system of telephones, or for such other purpose as the company may be incorporated for, as the case may be, and may construct and operate the same by any means through, under, along or over streets, highways and public places; but subject always to such agreement in respect thereof as shall be made between the company and the municipal corporation within whose jurisdiction the same are situate, and be ratified by a by-law of the council of such municipality; and such municipality may, by agreement ratified as aforesaid, contract with any such company for the purchase of water, gas or electricity and for the purchase or renting of any apparatus connected with the production, sale

Erection of works
Municipal contract
Exemption from taxation

of distribution thereof for any number of years not in the first instance exceeding ten years, and renew any such contract from time to time for such period not exceeding ten years as such council desires.

Terms when
roads not within
a municipality

(2) In the case of streets, highways and public places not within the limits of any municipality, the right of any such gas, water, electric or telephone company to make use of such streets, highways or public places to the extent indicated in this Ordinance shall be subject to such terms as may be imposed by the Commissioner upon application first made by such company. R.O. 1958, c. 19, s. 190.

Powers of
companies

194. (1) Every such company may sell and dispose of gas meters and gas, water and electric fittings of every description for the use of private and public houses or for any establishment, company or corporation whatsoever, as well as coke, coal, tar and all and every the products of their works, refuse or residuum arising to be obtained from the materials used or necessary for the manufacture of gas or electricity; and every company may let out to hire gas meters and gas, water and electric fittings of every kind and description at such rate and rents as may be agreed upon between the consumers and tenants and such company. R.O. 1958, c. 19, s. 191.

Laying mains
and wires on
streets

195. (1) Any such company may break up, dig and trench and use so much and so many of the streets, squares, highways, lanes and public places of the locality for supplying which with gas, water, electricity or other product or service or either of them the company has been incorporated as are necessary for laying the mains and pipes to conduct the gas or water or for placing the wires and connections to conduct the electricity or other product and to supply such services from the works of and by the company to and for the consumers or users thereof, doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places while the works are in progress. R.O. 1958, c. 19, s. 192.

Company's
rights regarding
mains and pipes

196. (1) When any such company has laid down mains, pipes, wires or conductors for the supply of gas, water or electricity through any of the streets, squares or public places of any locality no other person or body politic or corporate shall without the prior consent of such company nor otherwise than on payment to such company of such compensation as may be agreed upon, or in default of agreement being arrived at, settled by arbitration, lay down any pipe, wire or

conductor for the supply of gas, water or electricity within six feet of such company's main pipes, wires or conductors or if it be impracticable to cut drains for such other main pipes, wires or conductors at a greater distance than as nearly six feet as the circumstances of the case will admit.

(2) This section applies to mains, pipes, wires or conductors crossing as well as running or parallel with other mains, pipes, wires or conductors. R.O. 1958, c. 19, s. 193.

197. (1) When there are buildings within the locality the different parts whereof belong to different proprietors or are in possession of different tenants or lessees the company may carry pipes, wires or conductors to any part of any building so situate passing over the property of one or more proprietors or in the possession of one or more tenants to convey the gas, water or electricity to the property of another or in the possession of another and such pipes, wires or conductors shall be carried up and attached to the outside of the building. R.O. 1958, c. 19, s. 194.

Supplying parts of buildings having different owners or tenants

198. (1) The company may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes, wires or conductors or taking up or repairing the same, doing as little damage as may be in the execution of the powers granted by this Ordinance. R.O. 1958, c. 19, s. 195.

Breaking up passages, etc.

199. (1) Every company shall make satisfaction to the owners or proprietors of buildings or other property or to the public for all damages by them sustained in or by the execution of all or any of the said powers subject to which provisions this Ordinance shall be sufficient to indemnify every such company and their servants, and those by them employed for what they or any of them do in pursuance of the powers hereby granted.

Compensation

(2) Every person claiming compensation from the company under this section shall proceed by originating summons. R.O. 1958, c. 19, s. 196.

Procedure

200. (1) Every such company shall construct, locate and operate its gas works, water works or electric or telephone system and all apparatus and appurtenances thereto belonging or appertaining or therewith connected and wheresoever situated so as not to endanger the public health or safety. R.O. 1958, c. 19, s. 197.

Location of works

Limitation of powers of company

201. (1) Nothing in this Ordinance authorizes any such company or any person acting under the authority of the same to take, use or injure for the purposes of the company any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house, or nursery ground for trees, or to convey from the premises of any person any water already appropriated and necessary for his domestic uses without the prior consent in writing of the owner. R.O. 1958, c. 19, s. 198.

Privileges of other companies

202. (1) Nothing in this Ordinance authorizes any company established under it to interfere with or infringe upon any exclusive privilege granted to any other company. R.O. 1958, c. 19, s. 199.

Individual rights

203. (1) Nothing in this Ordinance prevents any person from constructing any works for the supply of gas, water, electricity or telephones to his own premises, but any person supplying electricity, water or telephone to any other premises than his own shall be subject to the provisions of this Part and shall pay the licence or fee at any time imposed on any other company or person supplying similar utilities in the same city, town or district. R.O. 1958, c. 19, s. 200.

Exemption from distress and seizure

204. (1) Neither the service nor the connecting pipes, wires or conductors of the company, nor any meters, lustres, lamps, pipes, gas fittings, electric fittings or any other property of any kind whatsoever of the company shall be subject to or liable for rent nor liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be, nor be in any way whatsoever liable to any person for the debt of any person to and for whose use or the use of whose house or building the same may be supplied by the company notwithstanding the actual or apparent possession thereof by such person. R.O. 1958, c. 19, s. 201.

Nonpayment of rates, etc.

205. (1) Where any person supplied by the company with gas, water, electricity or other product, telephone or other service neglects, to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof, the company or any one acting under its authority on giving forty-eight hours previous notice to the person supplied may stop the supply of gas, water, electricity or other product from entering or being supplied, and may cut off such telephone or other service to the premises of and to the person in arrear by cutting off the service pipe or pipes, wires or conductors or by such other means as the company or its officers see fit and may recover the rent or charge due up to

such time together with the expense of cutting off the gas, water, electricity or other product or service as the case may be, in any competent court notwithstanding any contract to furnish for a longer time. R.O. 1958, c. 19, s. 202.

206. (1) In all cases where the company may lawfully cut off and take away the supply of gas, water, electricity or other product or service from any house, building or premises the company, their agents or their workmen upon giving forty-eight hours previous notice to the person in charge or the occupier may enter into the house, building or premises between the hours of nine o'clock in the forenoon and five o'clock in the afternoon, making as little disturbance and inconvenience as possible and may remove and take away any pipe, meter, cock, branch, lamp, fitting, telephone or other apparatus the property of and belonging to the company and any servant duly authorized by the company may between the said hours enter any house into which gas, water, electricity or other product or service have been taken or supplied for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe, apparatus or fitting belonging to the company or used for their gas, water, electricity or other product or service, and where any person does not permit the servants and officers of the company to enter and perform the said acts the person so refusing or obstructing shall incur a penalty to the company, for every such offence, of twenty dollars, and a further penalty of four dollars for every day during which such refusal or obstruction continues. R.O. 1958, c. 19, s. 203.

Entry of premises by employees of company

207. (1) Where any customer discontinues the use of the gas, or other means of lighting or heating, or water, electricity or power or other product or service furnished or supplied by a company incorporated under this Ordinance and subject to the provisions of this Part, or the company lawfully refuses to continue any longer to supply the same, the officers and servants of the company may at all reasonable times enter the premises in or upon which such customer was supplied with gas, or other means of lighting or heating, water, electricity, power or other product or service for the purpose of removing therefrom any fittings, machines, apparatus, meters, pipes, wires, conductors, telephones or other things, being the property of the company, in or upon such premises and may remove the same therefrom, doing no unnecessary damage. R.O. 1958, c. 19, s. 204.

Removal of fittings, etc., where service discontinued

Expropriation

208. (1) Where it is deemed proper to conduct any of the pipes, wires or conductors or to carry any of the works of the company through the lands of any person lying within or without ten miles of the locality for supplying which the company is incorporated and the consent of such person cannot be obtained for that purpose the company may take or use the land required and nominate and appoint a disinterested person and the owner or owners of the land taken or damaged may nominate and appoint another, which two persons so appointed shall nominate and appoint a third person and the said three persons shall act as arbitrators in the matter between the company and the owner or owners of the property.

Appointment of arbitrators

(2) Nothing in this section authorizes the company to take or use any house, land or property in contravention of section 201. R.O. 1958, c. 19, s. 205.

Powers and duties of arbitrators

209. (1) The arbitrators shall examine all witnesses and administer all necessary oaths or declarations to them and the arbitrators or a majority of them shall award, determine and adjudge what sum or sums of money respectively shall be paid to the owner or owners of the property so taken or damaged by the company. R.O. 1958, c. 19, s. 206.

Payment of award

210. (1) The sum or sums of money so awarded shall be paid within three months after the date of the award and in default of such payment the owner or owners may resume the possession of his property with all the rights appertaining thereto, but the company shall be held liable to such owner for any damage it may have done to the property. R.O. 1958, c. 19, s. 207.

Failure to appoint arbitrator

211. (1) In the event of the company or the owner of such property failing to appoint an arbitrator after eight days' notice from one of the said parties to the other or of the said two arbitrators failing to appoint a third, a judge of the Territorial Court may appoint a third arbitrator and the decision of the three arbitrators or a majority of them shall be binding on all parties concerned. R.O. 1958, c. 19, s. 208.

Company shall supply

212. (1) All companies having the privileges conferred by this Part shall supply the utility controlled by them to all persons within the area covered by the privilege except in such cases where the company may lawfully refuse to supply such utility. R.O. 1958, c. 19, s. 209.

213. (1) This Part, in so far as the same may be applicable, applies to any company previously incorporated under any general or special Ordinance for any of the purposes referred to in section 182. R.O. 1958, c. 19, s. 210.

Applies to companies heretofore incorporated

PART IX

WINDING-UP

Preliminary

214. (1) The winding-up of a company may be either

Modes of winding-up

- (a) by the Court;
- (b) by voluntary action; or
- (c) subject to the supervision of the Court.

(2) The provisions of this Ordinance with respect to winding-up apply, unless the contrary appears, to the winding-up of a company in any manner mentioned in subsection (1).

(3) This Part applies to the winding-up of all companies or associations incorporated by or under the authority of the Council, except those companies or associations wound up on the ground of the bankruptcy or insolvency of such company or association. R.O. 1958, c. 19, s. 211.

Contributories.

215. (1) Where a company is wound up, every present and past member shall, subject to this section, be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities and the cost, charges and expenses of the winding-up, and for the adjustment of the rights of the contributories among themselves, subject to the following:

Liability as contributories of present and past members.

- (a) a past member is not liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding-up;
- (b) a past member is not liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;
- (c) a past member is not liable to contribute unless it appears to the Court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Ordinance;
- (d) in the case of a company limited by shares, no contribution shall be required from any member exceeding

the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member ;

- (e) in the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up ; and
- (f) a sum due to any member of a company, in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company ; but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding-up of a limited company, any director or manager, whether past or present, whose liability pursuant to this Ordinance is unlimited, is, in addition to his liability, if any, to contribute as an ordinary member, liable to make a further contribution as if he were, at the commencement of the winding-up, a member of an unlimited company ; except that

- (a) a past director or manager is not liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding-up ;
- (b) a past director or manager is not liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office ; and
- (c) subject to the articles of the company, a director or manager is not liable to make such further contribution unless the Court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges and expenses of the winding-up.

(3) In the winding-up of a company limited by guarantee that has a share capital, every member of the company is, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, liable to contribute to the extent of any sums unpaid on any shares held by him. R.O. 1958, c. 19, s. 212.

Definition of
"contributory"

216. (1) The term "contributory" means every person liable to contribute to the assets of a company in the event of its being wound up, and, in all proceedings for determining

and in all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory. R.O. 1958, c. 19, s. 213.

217. (1) The liability of a contributory shall create a debt, of the nature of a specialty, accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability. R.O. 1958, c. 19, s. 214.

Nature of liability of "contributory"

218. (1) Where a contributory dies either before or after he has been placed on the list of contributories, his personal representatives and his heirs and devisees are liable in due course of administration to contribute to the assets of the company in discharge of his liability, and are contributories accordingly.

Contributories in case of death of member

(2) Where the personal representatives are placed on the list of contributories, the heirs or devisees need not be added, but they may be added as and when the Court thinks fit.

(3) Where the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the personal and real estates of the deceased contributory, or either of them, and of compelling payment thereof of the money due. R.O. 1958, c. 19, s. 215.

Winding-up by Court

219. (1) A company may be wound up by the Court

Circumstances in which company may be wound up by Court

- (a) if the company has by special resolution resolved that the company be wound up by the Court;
- (b) if default is made in filing the statutory report or in holding the statutory meeting;
- (c) if the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;
- (d) if the number of members is reduced, in the case of a private company, below two, or in the case of any company registered prior to this Ordinance, below three, or, in the case of any other company, below five; or
- (e) if the Court is of opinion that it is just and equitable that the company should be wound up. R.O. 1958, c. 19, s. 216.

Provisions as to applications for winding-up.

220. (1) An application to the Court for the winding-up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by any contributory or contributories, or either of those parties, together or separately; except that

(a) a contributory is not entitled to present a petition for winding up a company unless

(i) either the number of members is reduced, in the case of a private company, below two, or, in the case of any other company, below five; or

(ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him and registered in his name for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder; and

(b) a petition for winding-up a company on the ground of default in filing the statutory report or in holding the statutory meeting shall not be presented by any person except a shareholder, nor before the expiration of fourteen days after the last day on which the meeting ought to have been held.

(2) Where a company is being wound up voluntarily or subject to supervision, a petition may be presented by the liquidator, as well as by any other person authorized in that behalf under the other provisions of this section, but the Court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding-up or winding-up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories. R.O. 1958, c. 19, s. 217.

Effect of winding-up order.

221. (1) An order for winding-up a company operates in favour of all the creditors and of all the contributories of the company. R.O. 1958, c. 19, s. 218.

Commencement of winding-up by Court.

222. (1) A winding-up of a company by the Court shall be deemed to commence at the time of the presentation of the petition for the winding-up. R.O. 1958, c. 19, s. 219.

Power to stay or restrain proceedings against company.

223. (1) At any time after the presentation of a petition for winding-up, and before a winding-up order has been made, the company, or any contributory, may,

(a) where any action or proceeding against the company is pending in the Court or Court of Appeal, apply to the

Court in which the action or proceeding is pending for a stay of proceedings therein; and

- (b) where any other action or proceeding is pending against the company, apply to the Court to restrain further proceedings in the action or proceedings;

and the Court may, stay or restrain the proceedings accordingly on such terms as it thinks fit. R.O. 1958, c. 19, s. 220.

224. (1) On hearing the petition the Court may dismiss it with or without costs, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it deems just, but the Court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

Powers of court on hearing petition

(2) Where the petition is presented on the ground of default in filing the statutory report or in holding the statutory meeting the Court may order the costs to be paid by any persons who, in the opinion of the Court, are responsible for the default. R.O. 1958, c. 19, s. 221.

225. (1) When a winding-up order has been made, no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court, and subject to such terms as the Court may impose. R.O. 1958, c. 19, s. 222.

Actions stayed on winding-up order

226. (1) On the making of a winding-up order, a copy of the order must forthwith be forwarded by the company to the Registrar, who shall make a minute thereof in his books relating to the company. R.O. 1958, c. 19, s. 223.

Copy of order to be forwarded to Registrar

227. (1) The Court may at any time after an order for winding-up, and on proof to the satisfaction of the Court that all proceedings in relation to the winding-up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the Court thinks fit. R.O. 1958, c. 19, s. 224.

Power of Court to stay winding-up

228. (1) The Court may, as to all matters relating to a winding-up, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence. R.O. 1958, c. 19, s. 225.

Court may have regard to wishes of creditors or contributories

Liquidators

Appointment, remuneration, and title of liquidators

229. (1) For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the Court may impose, the Court may appoint a liquidator or liquidators. R.O. 1958, c. 19, s. 226.

(2) The Court may make such an appointment provisionally at any time after the presentation of a petition and before the making of an order for winding up, and

- (a) if a provisional liquidator is appointed before the making of a winding-up order, any fit person may be appointed;
- (b) such provisional liquidator shall promptly give notice of his appointment to the Registrar and give security in such amount as the Court may direct, to the satisfaction of the clerk of the Court; and
- (c) where any person other than the provisional liquidator is afterwards appointed liquidator, he shall not be capable of acting as liquidator until he has notified his appointment to the Registrar and given security in the prescribed manner to the satisfaction of the clerk of the Court.

(3) If more than one liquidator is appointed by the Court, the Court shall declare whether any act by this Ordinance required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(4) A liquidator appointed by the Court may resign or, on cause shown, be removed by the Court, and a vacancy in the office of a liquidator appointed by the Court shall be filled by the Court.

(5) The liquidator shall receive such salary or remuneration by way of percentage or otherwise as the Court may direct; and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the Court directs.

(6) A liquidator shall be described by the style of the liquidator of the particular company in respect of which he is appointed, and not by his individual name.

(7) The acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification. R.O. 1958, c. 19, s. 226.

Custody of company's property

230. (1) In a winding-up by the Court the liquidator shall take into his custody, or under his control, all the property

and things in action to which the company is or appears to be entitled.

(2) In a winding-up by the Court, if and so long as there is no liquidator, all the property of the company shall be deemed to be in the custody of the Court. R.O. 1958, c. 19, s. 227.

231. (1) The liquidator in a winding-up by the Court has power, with the sanction either of the Court or of the committee of inspection, if any, Powers of liquidator

- (a) to bring or defend any action or other legal proceeding in the name and on behalf of the company;
- (b) to carry on the business of the company, so far as may be necessary for the beneficial winding-up thereof; and
- (c) to employ a solicitor or other agent to take any proceedings or do any business which the liquidator is unable to take or do himself; but the sanction in this case must be obtained before the employment, except in cases of urgency, and in those cases it must be shown that no undue delay took place in obtaining the sanction.

(2) The liquidator in a winding-up by the Court has power

- (a) to sell the real and personal property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;
- (b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents, and for that purpose to use, when necessary, the company's seal;
- (c) to prove, rank and claim in the distribution of the estate of any contributory, for any balance against his estate, and to receive dividends in such distribution in respect of that balance, as a separate debt due from the estate of the contributory, and ratably with the other separate creditors;
- (d) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the company in the course of its business;
- (e) to raise on the security of the assets of the company any money requisite;

(f) to take out in his official name, letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company; and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself; and

(g) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

(3) The exercise by the liquidator of the powers conferred by this section is subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers.

(4) Where a liquidator is provisionally appointed by the Court, the Court may limit and restrict his powers by the order appointing him. R.O. 1958, c. 19, s. 228.

Meetings of
creditors and
contributories

232. (1) Where a winding-up order has been made by the Court, the liquidator shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the Court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

(2) The Court may make an appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of any of the matters mentioned in the foregoing provisions of this section, the Court shall decide the difference and make such order thereon as the Court may think fit. R.O. 1958, c. 19, s. 229.

Payments of
liquidator into
bank

233. (1) Every liquidator of a company that is being wound up by the Court shall, in such manner and at such times as the Court may direct, pay the money received by him into a chartered bank.

(2) Where any such liquidator at any time retains for more than ten days a sum exceeding two hundred and fifty dollars, or such other amount as the Court in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the Court, he shall pay interest on the amount so retained in excess at the lawful rate per

annum, and is liable to disallowance of all or such part of his remuneration as the Court may think just, and to be removed from his office by the Court, and shall pay any expenses occasioned by reason of his default.

(3) A liquidator of a company that is being wound up by the Court shall not pay any sums received by him as liquidator into his private banking account. R.O. 1958, c. 19, s. 230.

234. (1) Every liquidator of a company that is being wound up by the Court shall, at such times as may be prescribed, but not less than twice in each year during his tenure of office, send to the clerk of the Court an account of his receipts and payments as liquidator.

Audit of liquidator's accounts

(2) The account shall be in a prescribed form, shall be made in duplicate, and shall be verified by a statutory declaration in the prescribed form.

(3) The Court shall cause the account to be audited, and for the purpose of the audit the liquidator shall furnish the auditor with such vouchers and information as he may require, and the auditor may at any time require the production of and inspect any books or accounts kept by the liquidator.

(4) When the account has been audited, one copy thereof shall be filed with the Court, and such copy shall be open to the inspection of any creditor, or of any person interested.

(5) The auditor shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory. R.O. 1958, c. 19, s. 231.

235. (1) Every liquidator of a company that is being wound up by the Court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed and any creditor or contributory may, subject to the control of the Court personally or by his agent inspect any such books. R.O. 1958, c. 19, s. 232.

Books to be kept by liquidator

236. (1) When a liquidator of a company that is being wound up by the Court has realized all the property of the company, or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, or has

Release of liquidators

resigned, or has been removed from his office, the Court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of this Ordinance, shall take into consideration the report, and any objection which may be urged by any creditor, or contributory, or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

(2) Where the release of a liquidator is withheld, the Court may, on the application of any creditor or contributory or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the Court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact, or may be reversed on appeal to the Court of Appeal.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office. R.O. 1958, c. 19, s. 233.

Exercise and
control of
liquidator's
powers

237. (1) Subject to this Ordinance, the liquidator of a company that is being wound up by the Court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection; and any directions given by the creditors or contributories at any general meeting shall, in case of conflict, be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and shall summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories, as the case may be.

(3) The liquidator may apply to the Court in manner prescribed for directions in relation to any particular matter arising under the winding-up.

(4) Subject to this Ordinance, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) Where any person is aggrieved by any act or decision of the liquidator, that person may apply to the Court, and the Court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just. R.O. 1958, c. 19, s. 234.

238. (1) The Court shall take recognizance of the conduct of liquidators of companies that are being wound up by the Court, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by Ordinance, rules or otherwise with respect to the performance of his duties, or if any complaint is made to the Court by any creditor or contributory in regard thereto, the Court shall inquire into the matter, and take such action thereon as may be deemed expedient.

Control of Court
over liquidators

(2) The Court may at any time require any liquidator of a company which is being wound up by the Court to answer any inquiry in relation to any winding-up in which he is engaged, and may, if thought fit, order his examination on oath before the clerk of the Court or any special examiner appointed by the Court concerning the winding-up.

(3) The Court may also direct a local investigation to be made of the books and vouchers of the liquidator. R.O. 1958, c. 19, s. 235.

Committee of Inspection, Special Manager, Receiver

239. (1) A committee of inspection appointed in pursuance of this Ordinance shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the Court.

Committee of
inspection in
winding-up

(2) The committee shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month; and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(4) Any member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) Where a member of the committee becomes insolvent, compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office thereupon becomes vacant.

(6) Any member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors or of contributories, if he represents contributories, of which seven days notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories as the case may require, to fill the vacancy, and the meeting may, by resolution, reappoint the same or appoint another creditor or contributory to fill the vacancy..

(8) The continuing members of the committee, if not less than two, may act notwithstanding any vacancy in the committee.

(9) Where there is no committee of inspection, any act or thing or any direction or permission by this Ordinance authorized or required to be done or given by the committee, may be done or given by the Court on the application of the liquidator. R.O. 1958, c. 19, s. 236.

Power to
appoint special
manager

240. (1) The liquidator of a company, whether provisionally or otherwise, may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, require the appointment of a special manager of the estate or business of the company other than himself, apply to the Court to, and the Court may on such application, appoint a special manager thereof to act during such time as the Court may direct, with such powers, including any of the powers of a receiver or manager, as may be intrusted to him by the Court.

(2) The special manager shall give such security and account in such manner as the Court may direct; and shall receive such remuneration as may be fixed by the Court. R.O. 1958, c. 19, s. 237.

Ordinary Powers of Court

241. (1) As soon as may be after making a winding-up order, the Court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required pursuant to this Ordinance, and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

Settlement of list of contributories and application of assets

(2) In settling the list of contributories, the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable to the debts of others. R.O. 1958, c. 19, s. 238.

242. (1) The Court may, at any time after making a winding-up order, require any contributory for the time being settled on the list of contributories, and any trustee, receiver, banker, agent or officer of the company, to pay, deliver, convey, surrender or transfer forthwith, or within such times as the Court directs, to the liquidator any money, property or books and papers in his hands to which the company is prima facie entitled. R.O. 1958, c. 19, s. 239.

Power to require delivery of property

243. (1) The Court may, at any time after making a winding-up order, make an order on any contributory for the time being settled on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call pursuant to this Ordinance.

Power to order payment of debts by contributory

(2) The Court in making such an order may, in the case of an unlimited company, allow to the contributory by way of set-off any money due to him, or to the estate which he represents, from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and may, in the case of a limited company, make to any director or manager whose liability in unlimited or to his estate the like allowance.

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call. R.O. 1958, c. 19, s. 240.

244. (1) The Court may, at any time after making a winding-up order, and either before or after it has ascertained

Power of Court to make calls

the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the Court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding-up, and for the adjustment of the rights of the contributories among themselves.

(2) In making a call the Court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call. R.O. 1958, c. 19, s. 241.

Power to order
payment into
bank

245. (1) The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into a chartered bank to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

(2) All moneys and securities paid or delivered into any bank in the event of a winding-up by the Court, are subject in all respects to the orders of the Court. R.O. 1958, c. 19, s. 242.

Order on
contributory
conclusive
evidencence

246. (1) An order made by the Court on a contributory is, subject to any right of appeal, conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons, and in all proceedings, except proceedings against the real estate of a deceased contributory, in which case the order shall be only prima facie evidence for the purpose of charging his real estate, unless his heirs or devisees were on the list of contributories at the time of the order being made. R.O. 1958, c. 19, s. 243.

Power to exclude
creditors not
proving in time

247. (1) The Court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved. R.O. 1958, c. 19, s. 244.

Adjustment of
rights of con-
tributories

248. (1) The Court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto. R.O. 1958, c. 19, s. 245.

249. (1) The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding-up in such order of priority as the Court thinks just. R.O. 1958, c. 19, s. 246.

Power to order costs

250. (1) When the affairs of a company have been completely wound up, the Court shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

Dissolution of company

(2) The order shall be reported by the liquidator to the Registrar, who shall make in his books a minute of the dissolution of the company.

(3) Where the liquidator makes default in complying with the requirements of this section, he is liable to a fine not exceeding twenty-five dollars for every day during which he is in default. R.O. 1958, c. 19, s. 247.

251. (1) General rules may be made for enabling or requiring any of the powers and duties conferred and imposed on the Court by this Ordinance, in respect of the following matters, to be exercised or performed by the liquidator as an officer of the Court and subject to the control of the Court;

Delegation to liquidator of certain powers of Court

- (a) holding and conducting meetings to ascertain the wishes of creditors and contributories;
- (b) settling lists of contributories and rectifying the register of members where required, and collecting and applying the assets;
- (c) requiring delivery of property or documents to the liquidator;
- (d) making calls; and
- (e) fixing a time within which debts and claims must be proved;

except that the liquidator shall not, without the special leave of the register of members, and shall not make any call without either the special leave of the Court or the sanction of the committee of inspection. R.O. 1958, c. 19, s. 248.

Extraordinary Powers of Court

252. (1) The Court may, after it has made a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the Court deems capable of giving infor-

Power to summon persons suspected of having property of company

mation concerning the trade, dealings, affairs or property of the company.

(2) The Court may examine him on oath, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The Court may require him to produce any books and papers in his custody or power relating to the company; but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the Court has jurisdiction in the winding-up to determine all questions relating to that lien.

(4) Where any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the Court at the time appointed, not having a lawful impediment, made known to the Court at the time of its sitting, and allowed by it, the Court may cause him to be apprehended and brought before the Court for examination. R.O. 1958, c. 19, s. 249.

Power to order public examination of promoters, directors, etc.

253. (1) When an order has been made for winding up a company by the Court, and the liquidator has made report under this Ordinance stating that in his opinion a fraud has been committed by any person in the promotion or formation of the company, or by any director or other officer of the company in relation to the company since its formation, the Court may, after consideration of the report, direct that any person who has taken any part in the promotion or formation of the company, or has been a director or officer of the company, shall attend before the Court on a day appointed by the Court for that purpose and be publicly examined as to the promotion or formation or the conduct of the business of the company, or as to his conduct and dealings as director or officer thereof.

(2) The liquidator and any creditor or contributory may take part in the examination, either personally or by solicitor or counsel.

(3) The Court may put such questions to the person examined as the Court thinks fit.

(4) The person examined shall be examined on oath, and shall answer all such questions as the Court may put or allow to be put to him.

(5) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the liquidator's report and may at his own cost

employ a solicitor with or without counsel, who shall be at liberty to examine him for the purpose of enabling him to explain or qualify any answers given by him; except that if he is in the opinion of the Court, exculpated from any charges made or suggested against him, the Court may allow him such costs as in its discretion it may think fit.

(6) Notes of the examination shall be taken down either in shorthand or in writing, and if in writing shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(7) The Court may, if it thinks fit, adjourn the examination from time to time.

(8) An examination under this section may, if the Court so directs, and subject to general rules, be held before any officer of the Court being a clerk or deputy clerk of the Court named for the purpose, and the powers of the Court under this section as to the conduct of the examination, but not as to costs, may be exercised by the person before whom the examination is held. R.O.1958, c. 19, s. 250.

254. (1) The Court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory is about to quit the Territory, or otherwise to abscond or to remove or to conceal any of his property for the purpose of evading payment of calls or of avoiding examination respecting the affairs of the company, may cause the contributory to be arrested, and his books and papers and movable personal property to be seized, and him and them to be safely kept until such time as the Court may order. R.O. 1958, c. 19, s. 251.

Power to arrest
absconding
contributory

255. (1) Any powers by this Ordinance conferred on the Court are in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the company, or the estate of any contributory or debtor, for the recovery of any call or other sums. R.O. 1958, c. 19, s. 252.

Powers of Court
cumulative

Enforcement of and Appeal from Orders

256. (1) Orders made by the Court under this Ordinance may be enforced in the same manner as orders made in any action pending therein. R.O. 1958, c. 19, s. 253.

Power to enforce
orders

Appeals from order

257. (1) Subject to the Rules of Court, an appeal from any order or decision made or given in the winding-up of a company by the Court under this Ordinance lies in the same manner and subject to the same conditions as an appeal from any order or decision of the Court in cases within its ordinary jurisdiction. R.O. 1958, c. 19, s. 254.

Voluntary Winding-up

Circumstances in which company may be wound up voluntarily

258. (1) A company may be wound up voluntarily

- (a) when the period, if any, fixed for the duration of the company by the Ordinance, charter or instrument of incorporation has expired, or when the event, if any, has occurred upon the occurrence of which it is provided by the Ordinance or charter or instrument of incorporation that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up ;
- (b) if the company resolves by special resolution that the company be wound up voluntarily ; and
- (c) if the company, although it may be solvent as respects creditors, resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up. R.O. 1958, c. 19, s. 255.

Commencement of voluntary winding-up

259. (1) A voluntary winding-up is deemed to commence at the times of the passing of the resolution authorizing the winding-up. R.O. 1958, c. 19, s. 256.

Effect of voluntary winding-up on status of company

260. (1) Where a company is wound up voluntarily, the company shall, from the commencement of the winding-up, cease to carry on its business, except so far as may be required for the beneficial winding-up thereof ; except that the corporate state and corporate powers of the company shall, notwithstanding anything in its articles, continue until it is dissolved. R.O. 1958, c. 19, s. 257.

Notice of resolution to wind up voluntary

261. (1) Where a company has resolved by special or extraordinary resolution to wind up voluntarily, it shall give notice of the resolution by advertisement in the *Yukon Gazette*. R.O. 1958, c. 19, s. 258.

Consequences of voluntarily winding-up

262. (1) The following consequences ensue on the voluntary winding-up of the company :

- (a) the property of the company shall be applied in satisfaction of its liabilities *pari passu*, and, subject thereto,

- shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company ;
- (b) the company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them ;
 - (c) on the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof ;
 - (d) the liquidator may, without the sanction of the Court, exercise all powers by this Ordinance given to the liquidator in a winding-up by the Court ;
 - (e) the liquidator may exercise the powers of the Court under this Ordinance of settling a list of contributories, and of making calls, and shall pay the debts of the company, and adjust the rights of the contributories among themselves ;
 - (f) the list of contributories shall be prima facie evidence of the liability of the persons named therein to be contributories ;
 - (g) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment, or in default of such determination by any number not less than two ;
 - (h) if from any cause whatever there is no liquidator acting, the Court may, on the application of a contributory, appoint a liquidator ; and
 - (i) the Court may, on cause shown, remove a liquidator, and appoint another liquidator. R.O. 1958, s. 19, s. 259.

263. (1) The liquidator in a voluntary winding-up shall, within twenty-one days after his appointment, file with the Registrar a notice of his appointment in the form prescribed.

Notice by
liquidator of his
appointment

(2) Where the liquidator fails to comply with the requirements of this section, he is liable to a fine not exceeding twenty-five dollars for every day during which the default continues. R.O. 1958, c. 19, s. 260.

264. (1) Every liquidator appointed by a company in a voluntary winding-up shall, within seven days from his appointment, send notice by post to all persons who appear to him to be creditors of the company that a meeting of the creditors of of the company will be held on a date, not being

Rights of
creditors in a
voluntary
winding-up

less than fourteen nor more than twenty-one days after his appointment, and at a place and hour, to be specified in the notice, and shall also advertise notice of the meeting once in the *Yukon Gazette* and once at least in one local newspaper circulating in the district where the registered office or principal place of business of the company was situate.

(2) At the meeting to be held pursuant to subsection (1) the creditors shall determine whether an application shall be made to the Court for the appointment of any person as liquidator in the place of or jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection, and, if the creditors so resolve, an application may be made accordingly to the Court at any time, not later than fourteen days after the date of the meeting, by any creditor appointed for the purpose of the meeting.

(3) On any such application the Court may make an order either for the removal of the liquidator appointed by the company and for the appointment of some other person as liquidator or for the appointment of some other person to act as liquidator jointly with the liquidator appointed by the company, or for the appointment of a committee of inspection either together with or without any such appointment of a liquidator, or such other order as, having regard to the interests of the creditors and contributories of the company, may seem just.

(4) No appeal lies from any order of the Court upon an application under this section.

(5) The Court shall make such order as to the costs of the application as it may think fit, and if it is of opinion that, having regard to the interests of the creditors in the liquidation, there were reasonable grounds for the application, may order the costs of the application to be paid out of the assets of the company, notwithstanding that the application is dismissed or otherwise disposed of adversely to the applicant. R.O. 1958, c. 19, s. 261.

Power to fill
vacancy in office
of liquidator

265. (1) Where a vacancy occurs by death, resignation or otherwise in the office of liquidator appointed by the company in a voluntary winding-up, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner prescribed by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the Court. R.O. 1958, c. 19, s. 262.

266. (1) A company about to be, or in course of being, wound up voluntarily may, by extraordinary resolution, delegate to its creditors, or to any committee of them, the power of appointing liquidators or any of them, and of supplying vacancies among the liquidators, or enter into any arrangement with respect to the powers to be exercised by the liquidators, and the manner in which they are to be exercised.

Delegation of
authorities to
appoint liquidators

(2) Any act done by creditors in pursuance of any such delegated power shall have the same effect as if it had been done by the company. R.O. 1958, c. 19, s. 263.

267. (1) Any arrangement entered into between a company about to be, or in the course of being, wound up voluntarily, and its creditors is, subject to any right of appeal under this section, binding on the company if sanctioned by any extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

Arrangement
when binding on
creditors

(2) Any creditor or contributory may, within three weeks from the completion of the arrangement, appeal to the Court against it, and the Court may thereupon, as it thinks just, amend, vary or confirm the arrangement. R.O. 1958, c. 19, s. 264.

268. (1) Where a company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company (in this section called the "transferee company"), the liquidator of the first-mentioned company (in this section called the "transferor Company") may, with the sanction of special resolution of that company, conferring either a general authority on the liquidator or an authority is in respect of any particular arrangement, receive, in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies or other like interests or in addition thereto participate in the profits of or receive any other benefit from the transferee company.

Power of
liquidator to
accept shares,
etc., as consideration for sale of
property of
company

(2) Any sale or arrangement in pursuance of this section is binding on the members of the transferor company.

(3) Where any member of the transferor company who did not vote in favour of the special resolution at either of the meetings held for passing and confirming it, expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within seven days after the confirmation of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration in manner provided by this section.

(4) Where the liquidator elects to purchase the member's interest the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution is not invalid for the purposes of this section by reason that it passed before or concurrently with a resolution for winding up the company, or for appointing liquidators; but, where an order is made within a year for winding up the company by or subject to the supervision of the Court, the special resolution is not valid unless sanctioned by the Court.

(6) For the purpose of an arbitration under this section the provisions of the *Arbitration Ordinance* with respect to the settlement of disputes by arbitration shall apply. R.O. 1958, c. 19, s. 265.

Company given power to dispose of undertaking

Shares, etc. may form part consideration

269. (1) Any company now or hereafter incorporated under this Ordinance has and shall be deemed to have had from the date of its incorporation power by resolution of the company to sell or dispose of its assets and whole undertaking for such consideration as the company thinks fit, and in particular for shares, debentures or securities of any other company having objects altogether or in part similar, if such sale or disposition is one of the objects of the company contained in its memorandum of association. R.O. 1958, c. 19, s. 266.

Power to apply to Court

270. (1) Where a company is being wound up voluntarily, the liquidator or any contributory or creditor may apply to the Court to determine any question arising in the winding-up, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court.

(2) The Court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as the Court thinks fit, or may make such other order on the application as the Court thinks just. R.O. 1958, c. 19, s. 267.

271. (1) Where a company is being wound up voluntarily, the liquidator may summon general meetings of the company for the purpose of obtaining the sanction of the company by special or extraordinary resolution, or for any other purposes he may think fit.

Power of
liquidator to call
general meeting

(2) In the event of the winding-up continuing for more than one year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding-up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding-up during the preceding year. R.O. 1958, c. 19, s. 268.

272. (1) In the case of every voluntary winding-up, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding-up, showing how the winding-up has been conducted and the property of the company has been disposed of; and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

Final meeting
and dissolution

(2) The meeting shall be called by advertisement in the *Yukon Gazette*, specifying the time, place and object thereof, and published continuously for one month at least before the meeting.

(3) Within one week after the meeting, the liquidator shall make a return to the Registrar of the holding of the meeting and of its date, and in default of so doing is liable to a fine not exceeding twenty-five dollars for every day during which the default continues.

(4) The Registrar on receiving the return shall forthwith register it, and on the expiration of three months from the registration of the return the company shall be deemed to be dissolved; except that the Court may, on the application of the liquidator or of any other person who appears to the Court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the Court thinks fit.

(5) It is the duty of the person on whose application an order of the court under this section is made, within seven days after the making of the order, to file with the Registrar an office copy of the order, and if that person fails so to do he is liable to a fine not exceeding twenty-five dollars for every day during which the default continues. R.O. 1958, c. 19, s. 269.

Costs of voluntary liquidation

273. (1) All costs, charges and expenses properly incurred in the voluntary winding-up of a company, including the remuneration of the liquidator, are payable out of the assets of the company in priority to all other claims. R.O. 1958, c. 19, s. 270.

Saving for rights of creditors and contributories

274. (1) The voluntary winding-up of a company does not bar the right of any creditor or contributory to have it wound up by the Court, if the Court is of opinion that the rights of the creditors or that the rights of the contributories will be prejudiced by a voluntary winding-up. R.O. 1958, c. 19, s. 271.

Power of Court to adopt proceedings of voluntary winding-up

275. (1) Where a company is being wound up voluntarily, and an order is made for winding-up by the Court, the Court may, if it thinks fit, by the same or any subsequent order, provide for the adoption of all or any of the proceedings in the voluntary winding-up. R.O. 1958, c. 19, s. 272.

Winding-up subject to Supervision of Court

Power to order winding-up subject to supervision

276. (1) When a company has by special or extraordinary resolution resolved to wind up voluntarily, the Court may make an order that the voluntary winding-up shall continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally on such terms and conditions as the Court thinks just. R.O. 1971, c. 19, s. 273.

Effect of petition for winding-up subject to supervision

277. (1) A petition for the continuance of a voluntary winding-up subject to the supervision of the Court shall, for the purpose of giving jurisdiction to the Court over actions, be deemed to be a petition for winding-up by the Court. R.O. 1958, c. 19, s. 274.

Court may have regard to wishes of creditors and contributories

278. (1) The Court may, in deciding between a winding-up by the Court and a winding-up subject to supervision, in the appointment of liquidators, and in all other matters relating to the winding-up subject to supervision, have regard to the wishes of the creditors or contributories as proved to it by any sufficient evidence. R.O. 1958, c. 19, s. 275.

279. (1) Where an order is made for a winding-up subject to supervision, the Court may, by the same or any subsequent order, appoint any additional liquidator.

Power for Court to appoint or remove liquidators

(2) A liquidator appointed by the Court under this section has the same powers, is subject to the same obligations, and in all respects stands in the same position as if he had been appointed by the company.

(3) The Court may remove any liquidator so appointed by the Court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation. R.O. 1958, c. 19, s. 276.

280. (1) Where an order is made for a winding-up subject to supervision, the liquidator may, subject to any restrictions imposed by the Court, exercise all his powers, without the sanction or intervention of the Court, in the same manner as if the company were being wound up altogether voluntarily.

Effect of supervision order

(2) An order for a winding-up subject to supervision is for all purposes, including the staying of actions and other proceedings, the making and enforcement of calls, and the exercise of all other powers, deemed to be an order for winding-up by the Court. R.O. 1958, c. 19, s. 277.

Supplemental Provisions

281. (1) In a voluntary winding-up, every transfer of shares, except transfers made to or within the sanction of the liquidator, and every alteration in the status of the members of the company made after the commencement of the winding-up, is void.

Avoidance of transfers, etc., after commencement of winding-up

(2) In the case of a winding-up by or subject to the supervision of the Court, every disposition of the property including things in action of the company, and every transfer of shares or alteration in the status of its members, made after the commencement of the winding-up, is, unless the Court otherwise orders, void. R.O. 1958, c. 19, s. 278.

282. (1) In every winding-up under this Ordinance, all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, are admissible proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value. R.O. 1958, c. 19, s. 279.

Debts of all description to be proved

Preferential
payment

283. (1) In every winding-up there shall be paid in priority to all other debts

- (a) all assessed taxes, rates, real-property tax, personal-property tax, wild-land tax, coal-land tax, timber-land tax or income tax assessed on the company up to the first day of January next before that date, and not exceeding in the whole one year's assessment;
- (b) wages or salary of any clerk or servant in respect of services rendered to the company during three months before the said date, not exceeding two hundred and fifty dollars;
- (c) all wages of any workman or labourer, whether payable for time or for piece work, in respect of services rendered to the company during three months before the said date; and
- (d) unless the company is being wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company, all amounts (not exceeding in any individual case five hundred dollars) due in respect of compensation under the *Workmen's Compensation Ordinance*.

(2) The foregoing debts shall

- (a) rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and
- (b) in so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the company and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to retention of such sums as may be necessary for the costs and expenses of the winding-up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) In the event of the landlord or other person distraining or having distrained on any goods or effects of the company within one month next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof except that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(5) The date mentioned in subsection (1) is

- (a) in the case of a company ordered to be wound up compulsorily that had not previously commenced to be wound up voluntarily, the date of the winding-up order; and
- (b) in any other case, the date of the commencement of the winding up. R.O. 1958, c. 19, s. 280.

284. (1) Any conveyance, mortgage, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against an individual, be deemed a fraudulent preference shall, if made or done by or against a company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors and be invalid accordingly. R.O. 1958, c. 19, s. 281.

Fraudulent preference

285. (1) Where any company is being wound up by or subject to the supervision of the Court, any attachment, sequestration, distress or execution put in force against the estate or effects of the company after the commencement of the winding-up is void to all intents. R.O. 1958, c. 19, s. 282.

Avoidance of certain attachments, executions, etc.

286. (1) The liquidator may, with the sanction

- (a) in the case of a winding-up by the Court, either of the Court or of the committee of inspection; or
- (b) in the case of a voluntary winding-up, of an extraordinary resolution of the company;

General scheme of liquidation may be sanctioned

do the following things or any of them :

- (c) pay any classes of creditors in full;
- (d) make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable; and
- (e) compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) In the case of a winding-up by the Court, the exercise by the liquidator of the powers of this section is subject to the control of the Court, and any creditor or contributory may apply to the Court with respect to any exercise or proposed exercise of any of those powers. R.O. 1958, c. 19, s. 283.

Power of Court to assess damages against delinquent directors, etc.

287. (1) Where in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present director, manager, liquidator or any officer of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, manager, liquidator or officer, and compel him to repay or restore the money or property or any part thereof, respectively, with interest at such rate as the Court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks just.

(2) This section applies notwithstanding that the offence is one for which the offender may be criminally responsible.

(3) Where an order for payment of money is made under this section, the order shall be deemed to be a final judgment. R.O. 1958, c. 19, s. 284.

Prosecution of delinquent directors, etc.

288. (1) Where it appears to the Court in the course of a winding-up by or subject to the supervision of the Court that any past or present director, manager, officer or member of the company has been guilty of an offence in relation to the company for which he is criminally responsible, the Court may, on the application of any person interested in the winding-up, or of its own motion, direct the liquidator to prosecute for the offence, and may order the costs and expenses to be paid out of the assets of the company.

(2) Where it appears to the liquidator in the course of a voluntary winding-up that any past or present director, manager, officer or member of the company has been guilty of an offence in relation to the company for which he is criminally responsible, the liquidator, with the previous sanction of the Court, may prosecute the offender, and all expenses properly incurred by him in the prosecution are payable out of the assets of the company in priority to all other liabilities. R.O. 1958, c. 19, s. 285.

289. (1) Where by this Ordinance the Court is authorized, in relation to winding-up, to have regard to the wishes of creditors or contributories, as proved to it by any sufficient evidence, the Court may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the Court directs, and may appoint a person to act as chairman of any such meeting, and to report the result thereof to the Court.

Meetings to ascertain wishes of creditors or contributories

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by the articles. R.O. 1958, c. 19, s. 286.

290. (1) Where any company is being wound up, all books and papers of the company and of the liquidators are, as between the contributories of the company, prima facie evidence of the truth of all matters purporting to be therein recorded. R.O. 1958, c. 19, s. 287.

Books of company to be evidence

291. (1) After an order for a winding-up by or subject to the supervision of the Court, the Court may make such order for inspection by creditors and contributories of the company of its books and papers as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly. R.O. 1958, c. 19, s. 288.

Inspection of books

292. (1) When the company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows:

Disposal of books and papers of company

- (a) in the case of winding-up by or subject to the supervision of the Court, in such way as the Court directs; and
- (b) in the case of a voluntary winding-up, in such way as the company by extraordinary resolution directs.

(2) After two years from the dissolution of the company no responsibility shall rest on the company or the liquidators or any person to whom the custody of the books and papers has been committed, by reason of the same not being forthcoming to any person claiming to be interested therein. R.O. 1958, c. 19, s. 289.

293. (1) Where a company has been dissolved, the Court may, at any time within one year of the date of the dissolu-

Power of Court to declare dissolution of company void

tion, of an application being made for the purpose by the liquidator of the company or by any other person who appears to the Court to be interested, make an order, upon such terms as the Court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved.

(2) It is the duty of the person on whose application the order was made, within seven days after the making of the order, to file with the Registrar a copy of the order, certified by the clerk of the Court; and where that person fails so to do he is liable to a fine not exceeding twenty-five dollars for every day during which the default continues. R.O. 1958, c. 19, s. 290.

Information as
to pending
liquidations

294. (1) If the winding-up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding-up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the company is entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom; but any person untruthfully so stating himself to be a creditor or contributory is guilty of a contempt of Court, and is punishable accordingly on the application of the liquidator.

(3) Where a liquidator fails to comply with the requirements of this section, he is liable to a fine not exceeding one hundred dollars for each day during which the default continues.

(4) Where it appears from any such statement or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for six months after the date of their receipt, the liquidator shall forthwith pay the same into the Yukon Consolidated Revenue Fund with a copy of the statement referred to in subsection (1), and is entitled to the prescribed certificate of receipt for the money so paid, and that certificate is an effectual discharge to him in respect thereof.

(5) Any person claiming to be entitled to any money paid into the Yukon Consolidated Revenue Fund in pursuance of this section may apply to the Commissioner for payment of

the same, and the Commissioner may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due.

(6) Any person dissatisfied with the decision of the Commissioner in respect of any claim made in pursuance of this section may appeal to the Court. R.O. 1958, c. 19, s. 291.

295. (1) In all proceedings under this Part all courts, judges and persons judicially acting, and all officers of any court, or employed in enforcing the process of any court, shall take judicial notice of the signature of any officer of the court appended to or impressed on any document made, issued or signed under the provisions of this Part, or any official copy thereof. R.O. 1958, c. 19, s. 292.

Judicial notice
of signature of
officers.

296. (1) The clerk of the Territorial Court shall be a commissioner for the purpose of taking evidence under this Ordinance, and the Court may refer the whole or any part of the examination of any witnesses under this Ordinance to any person hereby appointed commissioner, who is hereby required to act as such commissioner.

Special commis-
sion for receiving
evidence.

(2) Every commissioner has, in addition to any other powers which he might lawfully exercise, in the matter so referred to him all the same powers of summoning and examining witnesses, of requiring the production or delivery of documents, of punishing defaults by witnesses, and of allowing costs and expenses to witnesses as the Court which made the winding-up order.

(3) The examination so taken shall be returned or reported to the Court which made the order in such manner as that Court directs. R.O. 1958, c. 19, s. 293.

297. (1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn before any person lawfully authorized to take and receive affidavits pursuant to the *Evidence Ordinance*.

Affidavits, etc.

(2) All courts, judges, justices, commissioners and persons acting judicially shall take judicial notice of the seal or stamp or signature, as the case may be, of any such person attached, appended or subscribed to any such affidavit or to any other document to be used for the purposes of this Part. R.O. 1958, c. 19, s. 294.

298. (1) The officers of the courts acting in the winding-up of companies shall make to the Registrar such returns of the business of their respective courts and offices, at such

Returns by
officers in
winding-up.

times and in such manner and form as may be prescribed, and from those returns the Registrar shall cause books to be prepared which shall be open for public information and searches. R.O. 1958, c. 19, s. 295.

Proceedings of
Registrar

299. (1) All documents purporting to be orders or certificates made or issued by the Registrar for the purposes of this Ordinance, and to be sealed with his seal of office, shall be received in evidence and deemed to be such orders or certificates without further proof, unless the contrary is shown.

(2) A certificate purporting to be signed by the Territorial Secretary that any order made, certificate issued, or act done is the order, certificate or act of the Commissioner, is conclusive evidence of the fact so certified. R.O. 1958, c. 19, s. 296.

Rules and Fees

Rules and fees
for winding-up

300. (1) The Commissioner may make general rules for carrying into effect the objects of this Part.

(2) All general rules made under this section shall be laid before the Council within three weeks after they are made, if the Council is then sitting, and, if it is not sitting, within one week after the beginning of the next session of the Council, and shall be judicially noticed, and shall have effect as if enacted by this Ordinance.

(3) There shall be paid in respect of proceedings under this Ordinance in relation to the winding up of companies such fees as the Commissioner may direct, and the Commissioner may further direct by whom and in what manner the same are to be collected and accounted for, and to what account they are to be paid. R.O. 1958, c. 19, s. 297.

Removal of Defunct Companies from Register

Registrar may
strike defunct
company off
register

301. (1) Where a company incorporated under any public Ordinance of the Territory, or a registered extra-territorial company, has failed for any period of two years after such incorporation or registration to send or file any return notice or document required to be made or filed or sent to the Registrar pursuant to this Ordinance or any former public Ordinance, or the Registrar has reasonable cause to believe that such company or an extra-territorial licensed company is not carrying on business or in operation, he shall send to the company by post a registered letter inquiring whether such company is carrying on business or in operation and notifying it of its default, if any.

(2) If within two months no reply to such letter is received by the Registrar, or such company fails to fulfil the lawful requirements of the Registrar or notifies the Registrar that it is not carrying on business or in operation, he may, at the expiration of another fourteen days, publish in the *Yukon Gazette* and send to such company a notice that at the expiration of two months from the date of that notice the name of such company mentioned therein will, unless cause is shown to the contrary, be struck off the register, and the company, if one incorporated under a public Ordinance of the Territory, will be dissolved.

(3) Where a company described in subsection (2) has not, by the expiration of the time referred to in the notice described in that subsection, shown cause as to why its name should not be struck off the register, the Registrar shall

(a) strike the name of the company off the register, and

(b) publish in two issues of the *Yukon Gazette* published at least twenty-eight days apart, notice that the name of the company has been struck off the register,

and upon such publication the company shall

(c) in the case of an incorporated company, be dissolved,
or

(d) in the case of an extra-territorial company, be deemed to have ceased to do business in the Territory under its licence or certificate of registration,

except that the liability, if any, of every director, managing officer and member of the company shall continue as if the name of the company had not been struck off the register.

(4) Where any such company or a member or creditor thereof feels aggrieved by the name of such company having been struck off the register in pursuance of this section, the company or member or creditor may, before the completion of the last mentioned publication, apply to the Court; and the Court, if satisfied that the company was at the time of the striking off carrying on business or in operation and that it is just to do so, may, upon such terms as the Court may see fit to impose, including the payment of any costs and expenses, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if the name thereof had never been struck off; and the Court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position, as nearly as may be, as if the name of the company had never been struck off.

(5) A letter or notice authorized or required for the purpose of this section to be sent to any such company may be sent by post addressed to the company at its registered or head office in the Territory; or, if no office has been registered, addressed to the care of some director or officer of the company; or, if there be no director or officer of the company whose name and address are known to the Registrar, the letter or notice in identical form may, in the case of an incorporated company, be sent to each of the persons who subscribed the memorandum of association, addressed to him at the address mentioned in the memorandum; and in the case of an extra-territorial company sent to the attorney of such company.

(6) Where a company is being wound up, and the Registrar has reasonable cause to believe either that no liquidator is acting or that the affairs of the company are fully wound up and the returns required to be made by the liquidator have not been made for a period of three consecutive months, after notice by the Registrar demanding the returns has been sent by post to the registered address of the company and to the liquidator at his last known place of business, the provisions of this section apply in like manner as if the Registrar had not within two months after sending the letter first mentioned received any answer there. R.O. 1958, c. 19, s. 298; 1962 (1st) c. 13, s. 1.

PART X

REGISTRATION OFFICE AND FEES

Appointment of
officers

302. (1) The Commissioner may appoint such assistant registrars, clerks and servants as may be deemed necessary for the registration of companies under this Ordinance, and the carrying out of such other duties as may be imposed upon them, and may make regulations with respect to their duties and may remove any persons so appointed.

(2) The Commissioner may direct a seal or seals to be prepared for the authentication of documents required for or connected with the registration of companies.

Inspection of
documents and
copies

(3) Any person may inspect the documents kept by the Registrar on payment of such fees as may be appointed by the Commissioner, and any person may require a certificate of the incorporation of any company, or a copy or extract of any other document or any part of any other document, to be certified by the Registrar, on payment for the certificate, certified copy or extract of the prescribed fees.

(4) A copy of or extract from any document kept and registered at the office of the registration of companies, certified to be a true copy under the hand of the Registrar or a deputy or assistant registrar (whose official position it shall not be necessary to prove), shall, in all legal proceedings, be admissible in evidence as of equal validity with the original document. Copies

(5) Whenever any act is by this Ordinance directed to be done to or by the Registrar, it shall, until the Commissioner otherwise directs, be done to or by the existing Registrar, or, on his absence, to or by such person as the Commissioner may for the time being authorize. R.O. 1958, c. 19, s. 299.

303. (1) All fees paid to the Registrar shall be paid into the Yukon Consolidated Revenue Fund. R.O. 1958, c. 19, s. 300. Fees

PART XI

APPLICATION OF ORDINANCE TO COMPANIES FORMED AND REGISTERED UNDER FORMER COMPANIES ORDINANCES

304. (1) In the application of this Ordinance to existing companies, it shall apply in the same manner in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by shares; in the case of a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by guarantee; in the case of a company specially limited under the provisions of Chapter 60 of the Consolidated Ordinances of the Yukon Territory, 1902, as a company specially limited under Part V of this Ordinance, and in the case of a company other than a limited company, as if the company had been formed and registered under this Ordinance as an unlimited company except that any reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Acts or Ordinances, as the case may be, under which it was registered. R.O. 1958, c. 19, s. 301. Application of Ordinance to companies formed under former Companies Ordinances

305. (1) Except as otherwise provided, this Ordinance applies to every company registered under any former public Act or Ordinance, in the same manner as it applies to companies registered but not formed under this Ordinance; except that any reference, express or implied, to the date of registration shall be construed as a reference to the date at which the Application of Ordinance to companies registered under former Companies Acts or Ordinances

company was registered under the aforesaid Acts or Ordinances, as the case may be. R.O. 1958, c. 19, s. 302.

306. (1) Any existing company may cause its shares to be transferred in manner hitherto in use, or in such other manner as the company may direct, and shall not require any greater number of shareholders than required by the Act or Ordinance under which incorporated. R.O. 1958, c. 19, s. 303.

PART XII

COMPANIES AUTHORIZED TO REGISTER UNDER THIS ORDINANCE

Companies
capable of being
registered

307. (1) With the exceptions and subject to the provisions mentioned and contained in this section,

- (a) any company consisting of three or more members that was in existence on the 1st day of May, 1914; and
- (b) any company formed after the date aforesaid, whether before or after the commencement of this Ordinance, in pursuance of any Ordinance of the Territory other than this Ordinance, or of letters patent, or being otherwise duly constituted by law, and consisting of five or more members,

may at any time register under the Ordinance as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up.

- (2) Notwithstanding subsection (1),
 - (a) a company having the liability of its members limited by Ordinance of the Territory or letters patent, and not being a joint-stock company as hereinafter defined, shall not register in pursuance of this section;
 - (b) a company having the liability of its members limited by Ordinance of the Territory or letters patent shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee;
 - (c) a company that is not a joint-stock company as hereinafter defined shall not register in pursuance of this section as a company limited by shares;
 - (d) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy in cases where proxies are allowed by the regulations of the company at a general meeting summoned for the purpose;

- (e) where a company not having the liability of its members limited by Ordinance of the Territory or letters patent is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting; and
- (f) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(3) In computing any majority under this section when a poll is demanded, regard shall be had to the number of votes to which each member is entitled according to the regulations of the company. R.O. 1958, c. 19, s. 304.

308. (1) For the purposes of this Part, as far as relates to registration of companies as companies limited by shares, a "joint-stock company" means a company having a permanent paid-up or nominal share capital of fixed amount, divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons; and such a company when registered with limited liability under this Ordinance shall be deemed to be a company limited by shares. R.O. 1958, c. 19, s. 305.

Definition of
"joint-stock
company"

309. (1) Before the registration in pursuance of this Part of a joint-stock company, there shall be delivered to the Registrar the following documents:

Requirements
for registration
by joint-stock
companies

- (a) a list showing the names, addresses and occupations of all persons who on a day named in the list, not being more than six clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number;
- (b) a copy of any private Ordinance of the Territory, charter, letters patent, deed of settlement, contract of

copartnery, memorandum and articles of association and by-laws or any other instrument constituting or regulating the company; and

- (c) if the company is intended to be registered as a limited company, a statement specifying the following particulars:
 - (i) the nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists;
 - (ii) the number of shares taken and the amount paid on each share;
 - (iii) the name of the company, with the addition of the word "limited" or "ltd." as the last word thereof; and
 - (iv) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee. R.O. 1958, c. 19, s. 306.

Requirements for registration by other than joint-stock companies

310. (1) Before the registration in pursuance of this Part of any company not being a joint-stock company, there shall be delivered to the Registrar

- (a) a list showing the names, addresses and occupations of the directors or other managers, if any, of the company;
- (b) a copy of any Ordinance of the Territory, letters patent, deed of steelement, contract of copartnery or other instrument constituting or regulating the company; and
- (c) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee. R.O. 1958, c. 19, s. 307.

Authentication of statements of existing companies

311. (1) The lists of members and directors and any other particulars relating to the company required to be delivered to the Registrar shall be verified by a statutory declaration of any two or more directors or other principal officers of the company. R.O. 1958, c. 19, s. 308.

Registrar may require evidence as to nature of company

312. (1) The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint-stock company as hereinbefore defined. R.O. 1958, c. 19, s. 309.

313. (1) No fees shall be charged in respect of the registration in pursuance of this Part of a company if it has already paid the same fees as if it had originally been registered under this Ordinance, otherwise the same fees shall be paid as are payable by a company registering under this Ordinance. R.O. 1958, c. 19, s. 310.

Exemption of certain companies from payment of fees

314. (1) When a company registers in pursuance of this Part with limited liability, the word "limited" or "ltd." shall form and be registered as part and the last word of its name. R.O. 1958, c. 19, s. 311 ; 1971 (1st) c. 17, s. 4.

Addition of "limited" or "ltd." to name

315. (1) On compliance with the requirements of this Part with respect to registration, and on payment of the prescribed fees, the Registrar shall certify under his hand that the company applying for registration is incorporated as a company under this Ordinance, and in the case of a limited company that it is limited, and thereupon the company is incorporated, and has perpetual succession and a common seal, with power to hold lands. R.O. 1958, c. 19, s. 312.

Certificate of registration of existing companies

316. (1) All property, real and personal (including choses in action), belonging to or vested in a company at the date of its registration in pursuance of this Part shall, on registration, pass to and vest in the company as incorporated under this Ordinance for all the estate and interest of the company therein. R.O. 1958, c. 19, s. 313.

Vesting of property on registration

317. (1) Registration of a company in pursuance of this Part does not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with or on behalf of the company before registration. R.O. 1958, c. 19, s. 314.

Saving for existing liabilities

318. (1) All actions and other legal proceedings that at the time of the registration of the company in pursuance of this Part are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place; nevertheless, execution shall not issue against the effects of an individual member of the company on any judgment, decree or order obtained in any such action or proceeding; but, in the event of the property and effects of the company being insufficient to satisfy the judgment, decree or order, an order may be obtained for winding up the company. R.O. 1958, c. 19, s. 315.

Continuation of existing actions

Effect of
registration
under Ordinance

319. (1) Where a company is registered in pursuance of this Part,

- (a) all provisions contained in any Ordinance, deed or settlement, contract of copartnery, letters patent or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Ordinance, have been required to be inserted in the memorandum were contained in a registered memorandum, and the remainder were contained in registered articles;
- (b) all the provisions of this Ordinance apply to the company, and the members, contributories and creditors thereof, in the same manner in all respects as if it had been formed under this Ordinance, subject as follows:
 - (i) the regulations in Table A of Schedule I do not apply unless adopted by special resolution;
 - (ii) the provisions of this Ordinance, relating to the numbering of shares do not apply to any joint-stock company whose shares are not numbered;
 - (iii) subject to this section, the company does not have power to alter any provision contained in any Ordinance, relating to the company;
 - (iv) subject to this section, the company does not have power, without the sanction of the Commissioner, to alter any provision contained in any letters patent relating to the company;
 - (v) the company does not have power to alter any provision contained in a charter, or letters patent with respect to the object of the company; and
 - (vi) in the event of the company being wound up, every person shall be a contributor, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability; or to pay or contribute to the payment of the costs and expenses of winding-up the company, so far as relates to such debts or liabilities and every contributor shall be liable to contribute to the assets

of the company, in the course of the winding-up, all sums due from him in respect of any such liability; and, in the event of the death of any contributor, the provisions of this Ordinance with respect to the personal representatives, heirs and devisees of deceased contributors apply; and

(c) the provisions of this Ordinance with respect to

- (i) the registration of an unlimited company as limited;
- (ii) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding-up; and
- (iii) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding-up,

apply, notwithstanding any provisions contained in any Ordinance, charter, deed of settlement, contract of copartnership, letters patent or other instrument constituting or regulating the company.

(2) Nothing in this section authorizes the company to alter any such provisions contained in any deed of settlement, contract of copartnership, letters patent or other instrument constituting or regulating the company, as would, if the company had originally been formed under this Ordinance, have been required to be contained in the memorandum and are not authorized to be altered by this Ordinance.

(3) Nothing in this Ordinance derogates from any power of altering its constitution or regulations which may, by virtue of any Ordinance, deed of settlement, contract of copartnership, letters patent or other instrument constituting or regulating the company, be vested in the company. R.O. 1958, c. 19, s. 316.

320. (1) Subject to this section, a company registered in pursuance of this Part may, by special resolution, alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.

Power to substitute memorandum and articles for deed of settlement

(2) The provisions of this Ordinance with respect to confirmation by the Court and registration of an alteration of the objects of a company shall, so far as applicable, apply to an

alteration under this section, with the following modifications:

- (a) there shall be substituted for the copy of the altered memorandum required to be delivered to the Registrar a copy of the substituted memorandum and articles; and
- (b) on the registration of the alteration being certified by the Registrar, the substituted memorandum and articles shall apply to the company in the same manner as if it were a company registered under this Ordinance with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company.

(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Ordinance.

(4) In this section "deed of settlement" includes any contract of copartnership or other instrument constituting or regulating the company, not being an Ordinance, a royal charter or letters patent. R.O. 1958, c. 19, s. 317.

Power of Court to stay or restrain proceedings

321. (1) The provisions of this Ordinance with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding-up and before the making of a winding-up order, in the case of a company registered in pursuance of this Part, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company. R.O. 1958, c. 19, s. 318.

Actions stayed on winding-up order

322. (1) Where an order has been made under this Ordinance for winding up a company registered pursuant to this Part, no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company except by leave of the Court, and subject to such terms as the Court may impose. R.O. 1958, c. 19, s. 319.

PART XIII

MISCELLANEOUS AND SUPPLEMENTAL

Legal Proceedings, Offences, etc.

Prosecution of offences

323. (1) All violations of the provisions of this Ordinance made punishable by any fine may be prosecuted under the

provisions regarding summary convictions contained in the *Criminal Code*. R.O. 1958, c. 19, s. 320.

324. (1) The Court imposing any fine under this Ordinance may direct that the whole or any part thereof be applied in or towards payment of the costs of the proceedings, or in or towards rewarding the person on whose information or at whose suit the fine is recovered; and subject to any such direction all fines under this Ordinance shall, notwithstanding anything in any other Ordinance, be paid into the Yukon Consolidated Revenue Fund. R.O. 1958, c. 19, s. 321.

Court may apply fine to payment of costs; otherwise pay into Y.C.R.F.

325. (1) Where a limited company is plaintiff in any action or other legal proceeding, the court may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given. R.O. 1958, c. 19, s. 322.

Insolvent plaintiff. Judge may order security for costs

326. (1) If in any proceeding against a director, or person occupying the position of director, of a company for negligence or breach of trust it appears to the Court hearing the case that the director or person is or may be liable in respect of the negligence or breach of trust, but has acted honestly and reasonably, and ought fairly to be excused for the negligence or breach of trust, that Court may relieve him, either wholly or partly, from his liability on such terms as the Court may think proper. R.O. 1958, c. 19, s. 323.

Relief against breach of trust

327. (1) Where any person or persons trade or carry on business within the Territory under any name or title of which "limited" or "ltd." is the last word, that person or those persons are unless duly incorporated with limited liability or licensed or registered, and entitled to use the word "limited" or "ltd." as the word of their name, liable to a fine not exceeding twenty-five dollars for every day upon which that name or title has been used. R.O. 1958, c. 19, s. 324; 1971 (1st) c. 17, s. 5.

No one to use "limited" or "ltd." as part of name unless incorporated

328. (1) All applications to the Court authorized by this Ordinance in which the procedure is not otherwise prescribed may, in all actions pending or other proceeding already in Court, be made to the Court or to a judge in chambers by motion, and in all other cases to a judge in chambers by petition. R.O. 1958, c. 19, s. 325.

Applications to the Court

Power to adjourn **329.** (1) A judge in chambers may adjourn any matter before him into Court for further argument and consideration. R.O. 1958, c. 19, s. 326.

Power to relieve from penalties **330.** (1) A judge in chambers has power at any time to remit or relieve from, either absolutely or upon condition, any penalty imposed or to which a company may be liable for the infraction of this Ordinance. R.O. 1958, c. 19, s. 327.

Authentication of Documents issued by the Commissioner

Authentication of documents issued by Commissioner **331.** (1) Any approval, sanction or licence, or revocation of licence, which under this Ordinance may be given or made by the Commissioner may be under the hand of any person authorized in that behalf by the Commissioner. R.O. 1958, c. 19, s. 328.

Offices

Existing offices to be continued **332.** (1) Registers of companies kept in any existing office shall be deemed part of the registers of companies to be kept under this Ordinance. R.O. 1958, c. 19, s. 329.

Rules and Regulations

Power to make rules **333.** (1) 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. R.O. 1958, c. 19, s. 330.

Power to make rules **334.** (1) Subject to this Ordinance and to any rules made by the Commissioner, the Registrar may make rules and regulations for the management of his office and the conduct of business therein. R.O. 1958, c. 19, s. 331.

Sections applicable to all companies **335.** (1) Sections 33, 73, 82, 122 and 123 apply to all companies heretofore or hereafter incorporated by any public Ordinance of the Territory. R.O. 1958, c. 19, s. 332.

336. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20. s. 6.

SCHEDULE I

TABLE A

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY
SHARES*Preliminary*

1. In these regulations, unless the context otherwise requires, expressions defined in the *Companies Ordinance*, or any statutory modification thereof in force at the date at which these regulations become binding on the company, shall have the meanings so defined; and words importing the singular shall include the plural, and vice versa, and words importing the masculine gender shall include females, and words importing persons shall include bodies corporate,

Business

2. The directors shall have regard to the restrictions on the commencement of business imposed by section 95 of the *Companies Ordinance*, if, and so far as, those restrictions are binding upon the company.

Shares

3. Subject to the provisions (if any) in that behalf of the memorandum of association of the company, and without prejudice to any special rights previously conferred on the holders of existing shares in the company, any share in the company may be issued with such preferred, deferred, or other special rights or such restrictions, whether in regard to dividend, voting, return of share capital, or otherwise, as the company may from time to time by special resolution determine.

4. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall, *mutatis mutandis*, apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class.

5. No share shall be offered to the public for subscription except upon the terms that the amount payable on application shall be at least five percent of the nominal amount of the share; and the directors shall, as regards any allotment of shares, duly comply with such of the provisions of sections 93 and 96 of the *Companies Ordinance* as may be applicable thereto.

6. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon; provided that, in respect of a share or shares held jointly by several persons, the company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

7. If a share certificate is defaced, lost, or destroyed, it may be renewed on payment of such fee (if any), not exceeding twenty-five cents, and on such terms (if any) as to evidence and indemnity as the directors think fit.

8. No part of the funds of the company shall be employed in the purchase of, or in loans upon the security of, the company's shares.

Lien

9. The company shall have a lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this clause. The company's lien (if any) on a share shall extend to all dividends payable thereon.

10. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled by reason of his death or bankruptcy to the share.

11. The proceeds of the sale shall be applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like

lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale. The purchaser shall be registered as the holder of the shares, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

Calls on Shares

12. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares: Provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the company at the time or times so specified the amount called on his shares.

13. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

14. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per centum per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

15. The provisions of these regulations as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

16. The directors may make arrangements on the issue of shares for a difference between the holders in the amount of calls to be paid and in the times of payment.

17. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the company in general meeting, six percent) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of Shares

18. The instrument of transfer of any shares in the company shall be executed both by the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

19. Shares in the company shall be transferred in the following form, or in any usual or common form which the directors shall approve:

I, A. B., of _____, in consideration of the sum of \$ _____ paid to me by C. D., of _____ (hereinafter called "the said transferee"), do hereby transfer to the said transferee the share (or shares) numbered _____ in the undertaking called the _____ Company, Limited, to hold unto the said transferee, his executors, administrators, and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said transferee, do hereby agree to take the said share (or shares) subject to the conditions aforesaid.

As witness our hands the _____ day of _____
Witness to the signatures of, etc.

20. The directors may decline to register any transfer of shares not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year. The directors may decline to recognize any instrument of transfer unless

- (a) a fee not exceeding fifty cents is paid to the company in respect thereof; and
- (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

21. The executors or administrators of a deceased sole holder of a share shall be the only persons recognized by the company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the executors or administrators of the deceased survivor, shall be the only persons recognized by the company as having any title to the share.

22. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be required by

the directors, have the right either to be registered as a member in respect of the share, or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

23. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company.

Forfeiture of Shares

24. If a member fails to pay any call or instalment of a call on the day appointed for the payment thereof, the directors may, at any time thereafter during such time as any part of such call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.

25. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

26. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

27. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

28. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding remain liable to pay to the company all moneys which, at the date of forfeiture, were presently payable by him to the company in respect of the shares, but his liability shall cease if and when the company receives payment in full of the nominal amount of the shares.

29. A statutory declaration in writing that the declarant is a director of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share, and that declaration, and the receipt of the company for the consideration (if any) given for the share on the sale or disposition thereof, shall constitute a good title to the share, and the person to whom the share is sold or disposed of shall be registered as the holder of the share and shall not be bound to see to the application of the purchase money (if any), nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale, or disposal of the share.

30. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of Shares into Stock

31. The directors may, with the sanction of the company previously given in general meeting, convert any paid-up shares into stock, and may with the like sanction reconvert any stock into paid-up shares of any denomination.

32. The holders of stock may transfer the same, or any part thereof, in the same manner and subject to the same regulations as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

33. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges, and advantages as regards dividends, voting at meetings of the company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

34. Such of the regulations of the company (other than those relating to share warrants) as are applicable to paid-up

shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder".

Share Warrants

35. The company may issue share warrants, and accordingly the directors may in their discretion, with respect to any share which is fully paid up, on application in writing signed by the person registered as holder of the share, and authenticated by such evidence (if any) as the directors may from time to time require as to the identity of the person signing the request, and on receiving the certificate (if any) of the share, and such fee as the directors may from time to time require, issue under the company's seal a warrant, duly stamped, stating that the bearer of the warrant is entitled to the shares therein specified, and may provide by coupons or otherwise for the payment of dividends, or other moneys, on the shares included in the warrant.

36. A share warrant shall entitle the bearer to the shares included in it, and the shares shall be transferred by the delivery of the share warrant, and the provisions of the regulations of the company with respect to transfer and transmission of shares shall not apply thereto.

37. The bearer of a share warrant shall, on surrender of the warrant to the company for cancellation, and on payment of such sum as the directors may from time to time prescribe, be entitled to have his name entered as a member in the register of members in respect of the shares included in the warrant.

38. The bearer of a share warrant may at any time deposit the warrant at the office of the company, and so long as the warrant remains so deposited the depositor shall have the same right of signing a requisition for calling a meeting of the company, and of attending and voting and exercising the other privileges of a member at any meeting held after the expiration of two clear days from the time of deposit, as if his name were inserted in the register of members as the holder of the shares included in the deposited warrant. Not more than one person shall be recognized as depositor of the share warrant. The company shall, on two days' written notice, return the deposited share warrant to the depositor.

39. Subject as herein otherwise expressly provided, no person shall, as bearer of a share warrant, sign a requisition for calling a meeting of the company, or attend, or vote, or exercise any other privilege of a member at a meeting of the company or be entitled to receive any notices from the company; but the bearer of a share warrant shall be entitled in all other respects,

to the same privileges and advantages as if he were named in the register of members as the holder of the shares included in the warrant, and he shall be a member of the company.

40. The directors may from time to time make rules as to the terms on which (if they shall think fit) a new share warrant or coupon may be issued by way of renewal in case of defacement, loss, or destruction.

Alteration of Capital

41. The directors may, with the sanction of an extraordinary resolution of the company, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

42. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of share capital, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of the same in such manner as they think most beneficial to the company. The directors may likewise so dispose of any new shares which (by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this article.

43. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture, and otherwise as the shares in the original share capital.

44. The company may, by special resolution,—

- (a) Consolidate and divide its share capital into shares of larger amount than its existing shares:
- (b) By subdivision of its existing shares, or any of them, divide the whole or any part of its share capital into shares of smaller amount than is fixed by the memorandum of association, subject, nevertheless, to the provisions of paragraph 47(1)(d) of the *Companies Ordinance*:

- (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person:
- (d) Reduce its share capital in any manner and with, and subject to, any incident authorized, and consent required, by law.

General Meetings

45. The statutory general meeting of the company shall be held within the period required by section 72 of the *Companies Ordinance*.

46. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the company in general meeting, or, in default, at such time in the month following that in which the anniversary of the company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

47. The above-mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

48. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitions, as provided by section 73 of the *Companies Ordinance*. If at any time there are not within the Territory sufficient directors capable of acting to form a quorum, any director or any two members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.

Proceedings at General Meeting

49. Seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given), specifying the place, the day, and the hour of meeting, and, in case of special business, the general nature of that business, shall be given in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the company in general meeting, to such

persons as are, under the regulations of the company, entitled to receive such notices from the company; but the non-receipt of the notice by any member shall not invalidate the proceedings at any general meeting.

50. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

51. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business; save as herein otherwise provided, three members personally present shall be a quorum.

52. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and, if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.

53. The chairman (if any) of the board of directors shall preside as chairman at every general meeting of the company.

54. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

55. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

56. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands)

demanded by at least three members, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

57. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

58. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a second or casting vote.

59. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members

60. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

61. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

62. A member of unsound mind, or in respect of whom an order has been made by any Court having jurisdiction in lunacy may vote, whether on a show of hands or on a poll, by his committee, *curator bonis*, or other person in the nature of a committee or *curator bonis* appointed by that Court and any such committee, *curator bonis*, or other person may, on a poll, vote by proxy.

63. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.

64. On a poll votes may be given either personally or by proxy.

65. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorized in writing, or, if the appointer is a corporation, either under the common seal or under the hand of an officer or attorney so

authorized. No person shall act as a proxy unless he is entitled on his own behalf to be present and vote at the meeting at which he acts as proxy, or he has been appointed to act at that meeting as proxy for a corporation.

66. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed, or a notarially certified copy of that power or authority, shall be deposited at the registered office of the company not less than forty-eight hours before the time for holding the meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

67. An instrument appointing a proxy may be in the following form, or in any other form which the directors shall approve:
Company Limited.

I, _____, of _____, in the _____, being a member
of the _____ Company, Limited, hereby appoint _____, of

_____, as may proxy to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the company to be held on the _____ day of _____, and at any adjournment thereof.

Signed this _____ day of _____

Directors

68. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

69. The remuneration of the directors shall from time to time be determined by the company in general meeting.

70. The qualification of a director shall be the holding of at least one share in the company, and it shall be his duty to comply with the provisions of section 80 of the *Companies Ordinance*.

Powers and Duties of Directors

71. The business of the company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the company, and may exercise all such powers of the company as are not, by the *Companies Ordinance*, or any statutory modification thereof for the time being in force, or by these articles, required to be exercised by the company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the said Ordinance, and to such regulations, being not inconsistent with the aforesaid regulations or provi-

sions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

72. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way and partly in another) as they may think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the company in general meeting resolve that his tenure of the office of managing director or manager be determined.

73. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the company without the sanction of the company in general meeting.

74. The directors shall duly comply with the provisions of the *Companies Ordinance*, or any statutory modification thereof for the time being in force, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the company, or created by it, and to keeping a register of the directors, and to sending to the Registrar of Companies an annual list of members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital or conversion of shares into stock, and copies of special resolutions, and a copy of the register of directors and notifications of any changes therein.

75. The directors shall cause minutes to be made in books provided for the purpose

- (a) of all appointments of officers made by the directors;
- (b) of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors;

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

Seal

76. The seal of the company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of at least two directors and of the secretary or such other person as the directors may appoint for the purpose; and these two directors and secretary or other person shall sign every instrument to which the seal of the company is so affixed in their presence.

Disqualifications of Directors

77. The office of director shall be vacated if the director
- (a) ceases to be a director by virtue of section 80 of the *Companies Ordinance*; or
 - (b) holds any other office of profit under the company except that of managing director or manager; or
 - (c) becomes bankrupt; or
 - (d) is found to be or becomes a mentally disordered person; or
 - (e) is concerned or participates in the profits of any contract with the company:

Provided, however, that no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is a director; but a director shall not vote in respect of any such contract or work, and if he does so vote his vote shall not be counted.

Rotation of Directors

78. At the first ordinary meeting of the company the whole of the directors shall retire from office, and at the ordinary meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest to one-third, shall retire from office.

79. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.

80. A retiring director shall be eligible for re-election.

81. The company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto.

82. If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up, the meeting shall stand adjourned till the same day in the next week, at the same time and place, and, if at the adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall be deemed to have been re-elected at the adjourned meeting.

83. The company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

84. Any casual vacancy occurring in the board of directors may be filled up by the directors but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

85. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the company at that meeting as an additional director.

86. The company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors

87. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

88. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall (when the number of directors exceed three) be three.

89. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regula-

tions of the company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

90. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

91. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the directors.

92. A committee may elect a chairman of their meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

93. A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

94. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or, persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve

95. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

96. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.

97. No dividend shall be paid otherwise than out of profits.

98. Subject to the rights of persons (if any) entitled to shares with special rights as to dividends, all dividends shall be de-

clared and paid according to the amounts paid on the shares; but if, and so long as nothing is paid up on any of the shares in the company, dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

99. The directors may, before recommending any dividend set aside out of the profits of the company such sums as they think proper as a reserve or reserves, which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit.

100. If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend payable on the share.

101. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

102. No dividend shall bear interest against the company.

Accounts

103. The directors shall cause true accounts to be kept

- (a) of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and
- (b) of the assets and liabilities of the company.

104. The books of account shall be kept at the registered office of the company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

105. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by Ordinance or authorized by the directors or by the company in general meeting.

106. Once at least in every year the directors shall lay before the company in general meeting a profit and loss account for the period since the preceding account or (in the case of the first account) since the incorporation of the company, made up to a date not more than six months before such meeting.

107. A balance-sheet shall be made out in every year and laid before the company in general meeting made up to a date not more than six months before such meeting. The balance-sheet shall be accompanied by a report of the directors as to the state of the company's affairs, and the amount which they recommend to be paid by way of dividend, and the amount (if any) which they propose to carry to a reserve fund.

108. A copy of the balance sheet and report shall, seven days previously to the meeting, be sent to the persons entitled to receive notices of general meetings in the manner in which notices are to be given hereunder.

Audit

109. Auditors shall be appointed and their duties regulated in accordance with sections 122 and 123 of the *Companies Ordinance* or any statutory modification thereof for the time being in force.

Notices

110. A notice may be given by the company to any member either personally or by sending it by post to him to his registered address, or (if he has no registered address in the Yukon Territory) to the address (if any) within the said Territory supplied by him to the company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

111. If a member has no registered address in the Yukon Territory and has not supplied to the company an address within the said Territory for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

112. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder named first in the register in respect of the share.

113. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address (if any) in the Yukon Territory supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

114. Notice of every general meeting shall be given in some manner hereinbefore authorized to

- (a) every member of the company (including bearers of share warrants) except those members who (having no registered address within the Yukon Territory) have not supplied to the company an address within the said Territory for the giving of notices to them, and
- (b) every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting.

No other persons shall be entitled to receive notices of general meetings.

R.O. 1958, c. 19, First Sched.

SCHEDULE II

FORM A

MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES

1st. The name of the Company is "The Eastern Steam Packet Company Limited".

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "The conveyance of passengers and goods in ships or boats between such places as the Company may from time to time determine, and the doing of all such other things as are incidental or conducive to the attainment of the above object".

4th. The liability of the members is limited.

5th. The share capital of the Company is _____ dollars, divided into _____ shares of _____ dollars each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
"1. John Jones, of _____, in the _____, Merchant	200
"2. John Smith, of _____, in the _____, "	25
"3. Thomas Green, of _____, in the _____, "	30
"4. John Thompson, of _____, in the _____, "	40
"5. Caleb White, of _____, in the _____, "	15
Total shares taken.....	310

Dated the _____ day of _____, 19 _____.

Witness to the above signatures:

Name
Address
Occupation

FORM B

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY
LIMITED BY GUARANTEE AND NOT HAVING A SHARE CAPITAL*Memorandum of Association*

1st. The name of the Company is "The Highland Hotel Company, Limited."

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "Facilitating travelling in the Territory by providing hotels and conveyances by water and by land for the accommodation of travellers, and the doing of all such other things as are incidental or conducive to the attainment of the above objects."

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the Company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the Company contracted before he ceases to be a member, and the costs, charges, and expenses of winding-up, and for the adjustment of the rights of the contributors among themselves, such amount as may be required, not exceeding fifty dollars.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association.

Names, Addresses, and Descriptions of Subscribers.

"1. John Jones, of	, in the	, Merchant.
"2. John Smith, of	, in the	, "
"3. Thomas Green, of	, in the	, "
"4. John Thompson, of	, in the	, "
"5. Caleb White, of	, in the	, "

Dated the day of , 19 .

Witness to the above signatures:

Name .
Address
Occupation

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING
MEMORANDUM OF ASSOCIATION

Number of Members

1. The Company for the purpose of registration, is declared to consist of five hundred members.
2. The directors hereinafter mentioned may, whenever the business of the Association requires it, register an increase of members.

General Meetings

3. The first general meeting shall be held at such time, not being less than one month nor more than three months after the incorporation of the Company, and at such place as the directors may determine.
4. A general meeting shall be held once in every year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the Company in general meeting, or, in default, at such time in the month following that in which the anniversary of the Company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.
5. The above mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.
6. The directors may, whenever they think fit, and shall, on a requisition made in writing by any five or more members, convene an extraordinary general meeting.
7. Any requisition made by the members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the Company.
8. On receipt of the requisition the directors shall forthwith proceed to convene a general meeting; if they do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited, the requisitionists, or any other five members, may themselves convene a meeting.

Proceedings at General Meetings

9. Seven days' notice at the least, specifying the place, the day, and the hour of meeting, and in case of special business the general nature of the business, shall be given to the members in manner hereinafter mentioned, or in such other manner (if any) as may be prescribed by the Company in general meeting; but the non-receipt of such notice by any member shall not invalidate the proceedings at any general meeting.

10. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance-sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

11. No business shall be transacted at any meeting except the declaration of a dividend, unless a quorum of members is present at the commencement of the business. The quorum shall be ascertained as follows, that is to say: If the members of the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional members up to fifty, and one for every ten additional members after fifty, with this limitation, that no quorum shall in any case exceed thirty.

12. If within one hour from the time appointed for the meeting a quorum of members is not present, the meeting, if convened on the requisition of the members, shall be dissolved; in any other case it shall stand adjourned to the same day in the following week at the same time and place; and if at such adjourned meeting a quorum of members is not present, it shall be adjourned *sine die*.

13. The chairman (if any) of the directors shall preside as chairman at every general meeting of the Company.

14. If there is no such chairman, or if at any meeting he is not present at the time of holding the same, the members present shall choose some one of their number to be chairman of that meeting.

15. The chairman may, with the consent of the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

16. At any general meeting, unless a poll is demanded by at least three members, a declaration by the chairman that a resolution has been carried and an entry to that effect in the book of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

17. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

Votes of Members

18. Every member shall have one vote and no more.

19. If any member is a mentally disordered person he may vote by his committee, *curator bonis*, the Public Administrator or other legal curator.

20. No member shall be entitled to vote at any meeting unless all moneys due from him to the Company have been paid.

21. On a poll votes may be given either personally or by proxy. A proxy shall be appointed in writing under the hand of the appointer, or, if such appointer is a corporation, under its common seal.

22. No person shall act as a proxy unless he is a member, or unless he is appointed to act at the meeting as proxy for a corporation.

The instrument appointing him shall be deposited at the registered office of the company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote.

23. Any instrument appointing a proxy shall be in the following form:—

Company, Limited.
, of , in the , being a member of the Company, Limited, hereby appoint , of , as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the Company to be held on the day of , and at any adjournment thereof.

Signed this day of , 19 .

Directors

24. The number of directors, and the names of the first directors, shall be determined by the subscribers of the Memorandum of Association.

25. Until directors are appointed the subscribers of the Memorandum of Association shall, for all the purposes of the *Companies Ordinance* be deemed to be directors.

Powers of Directors

26. The business of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not by the *Companies Ordinance*, or by any statutory modification thereof for the time being in force, or by these articles required to be exercised by the Company in general meeting; but no regulation made by the Company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

Election of Directors

27. The directors shall be elected annually by the Company in general meeting.

Audit

28. Auditors shall be appointed and their duties regulated in accordance with sections 122 and 123 of the *Companies Ordinance* or any statutory modification thereof for the time being in force, and for this purpose the said sections shall have effect as if the word "members" were substituted for "shareholders", and as if "first general meeting" were substituted for "statutory meeting".

Notices

29. A notice may be given by the Company to any member either personally, or by sending it by post to him to his registered address.

30. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Names, Addresses, and Descriptions of Subscribers.

- | | | |
|----------------------|----------|----------|
| 1. John Jones, of | , in the | Merchant |
| 2. John Smith, of | , in the | " |
| 3. Thomas Green, of | , in the | " |
| 4. John Thompson, of | , in the | " |
| 5. Caleb White, of | , in the | " |

Dated the day of , 19 .

Witness to the above signatures:

Name .
 Address
 Occupation

FORM C

MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY
 LIMITED BY GUARANTEE AND HAVING A SHARE CAPITAL

Memorandum of Association

1st. The name of the Company is "The Killarney Hotel Company, Limited".

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "The facilitating travelling in the mountains of Yukon Territory by providing hotels and conveyances by sea and by land for the accommodation of travellers, and the doing all such other things as are incidental or conducive to the attainment of the above objects".

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the Company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company, contracted before he ceases to be a member, and the costs, charges, and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding one hundred dollars.

6th. The share capital of the Company shall consist of dollars, divided into shares of dollars each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company, in

pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers.	Number of Shares taken by each Subscriber.
1. John Jones, of _____, in the _____, Merchant	200
2. John Smith, of _____, in the _____, "	25
3. Thomas Green, of _____, in the _____, "	30
4. John Thompson, of _____, in the _____, "	40
5. Caleb White, of _____, in the _____, "	15
Total shares taken.....	310

Dated the _____ day of _____, 19 _____.

Witness to the above signatures:

Name _____
 Address _____
 Occupation _____

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING
 MEMORANDUM OF ASSOCIATION

1. The directors may, with the sanction of the Company in general meeting, reduce the amount of shares in the Company.

2. The directors may, with the sanction of the Company in general meeting, cancel any shares belonging to the Company.

3. All the articles of Table A of the *Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the Company.

Names, Addresses, and Descriptions of Subscribers.

1. John Jones, of _____, in the _____,	Merchant.
2. John Smith, of _____, in the _____,	"
3. Thomas Green, of _____, in the _____,	"
4. John Thompson, of _____, in the _____,	"
5. Caleb White, of _____, in the _____,	"

Dated the _____ day of _____, 19 _____.

Witness to the above signatures:

Name _____
 Address _____
 Occupation _____

FORM D

MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A SHARE CAPITAL

Memorandum of Association

1st. The name of the Company is "The Patent Stereotype Company."

2nd. The registered office of the Company will be situate in

3rd. The objects for which the Company is established are: "The working of a patent method of founding and casting stereotype plates, of which method John Smith of _____, is the sole patentee."

We, the several persons whose names are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association, and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names, Addresses, and Descriptions of Subscribers	Number of Shares taken by each Subscriber
1. John Jones, of _____, in the _____, Merchant	3
2. John Smith, of _____, in the _____, " "	2
3. Thomas Green, of _____, in the _____, " "	1
4. John Thompson, of _____, in the _____, " "	2
5. Caleb White, of _____, in the _____, " "	2
Total shares taken.....	10

Dated the _____ day of _____, 19 _____.

Witness to the above signatures:

Name _____
Address _____
Occupation _____

ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION

1. The share capital of the Company is _____ dollars, divided into twenty shares of _____ dollars each.

2. All the articles of Table A of the *Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the Company.

Names, Addresses, and Descriptions of Subscribers.

- | | | |
|----------------------|----------|-----------|
| 1. John Jones, of | , in the | Merchant. |
| 2. John Smith, of | , in the | " |
| 3. Thomas Green, of | , in the | " |
| 4. John Thompson, of | , in the | " |
| 5. Caleb White, of | , in the | " |

Dated the _____ day of _____, 19__ .

Witness to the above signatures:

Name _____
 Address _____
 Occupation _____

FORM E

(As required by Part III of the Ordinance.)

Summary of Share Capital and Shares of the _____ Company
 Limited, made up to the _____ day of _____, 19__
 (being the fourteenth day after the date of the first ordinary
 general meeting in 19__).

Nominal share capital, \$ _____, divided into ¹	} shares of \$ _____ each. shares of \$ _____ each.
Total number of shares taken up ¹ to the day of _____, 19__ (which number must agree with the total shown in the list as held by existing members).	

Number of shares issued subject to payment wholly in
 cash.

Number of shares issued as fully paid up otherwise than
 in cash.

Number of shares issued as partly paid up to
 the extent of _____ per share otherwise than
 in cash.....

² There has been called up on each of	shares, \$
There has been called up on each of	shares, \$
³ There has been called up on each of	shares, \$

2Total amounts of calls received, including pay- ments on application and allotment.....	} \$
Total amount (if any) agreed to be considered as paid on _____ shares which have been issued as fully paid up otherwise than in cash	} \$
Total amount (if any) agreed to be considered as paid on _____ shares which have been issued as partly paid up to the extent of per share.....	} \$
Total amount of calls unpaid.....	\$
Total amount (if any) of sums paid by way of commission in respect of shares or debentures or allowed by way of discount since date of last summary.....	} \$
Total amount (if any) paid on 4 _____ shares forfeited.....	} \$
Total amount of shares and stock for which share warrants are outstanding.....	\$
Total amount of share warrants issued and sur- rendered respectively since date of last sum- mary.....	} \$
Number of shares or amount of stock comprised in each share warrant.....	} \$
Total amount of debt due from the Company in respect of all mortgages and charges which are required to be registered with the Registrar of Companies, or which would require regis- tration if created after the 12th day of March, 1906.....	} \$

¹When there are shares of different kinds or amounts (e.g., preference and ordinary, or \$10 or \$5), state the numbers and nominal values separately.

²Where various amounts have been called or there are shares of different kinds, state them separately.

³Include what has been received on forfeited as well as on existing shares.

⁴State the aggregate number of shares forfeited (if any).

Statement in the form of a balance-sheet made up to the day of _____, 19____, containing the particulars of the capital, liabilities, and assets of the Company.

The Return must be signed at the end by the manager or secretary of the Company.

Presented for filing by.....

List of persons holding shares in the _____ Company, Limited, on the _____ day of _____, 19____, and of persons who have held shares therein at any time since the date of the last Return, showing their names and addresses, and an account of the shares, so held.

Folio in Register Ledger containing Particulars	NAMES, ADDRESSES AND OCCUPATIONS				ACCOUNT OF SHARES				
	Sur-name	Chris-tian Name	Ad-dress	Occu-pation	*Num-ber of Shares held by Existing Mem-bers at Date of Return	†Particulars of Shares transferred since the Date of the Last Return by Persons who are still Members		†Particulars of Shares transferred since the Date of the Last Return by Persons who have ceased to be Members	
						Num-ber†	Date of Reg-istration of Trans-fer	Num-ber†	Date of Reg-istration of Trans-fer

Names and addresses of the persons who are the Directors of the _____, Limited, on the _____ day of _____

Names	Addresses

(Signature).....

(State whether manager or secretary).....

*The aggregate number of shares held, and not the distinctive numbers, must be stated, and the column must be added up throughout so as to make one total to agree with that stated in the summary to have been taken up.

†The date of registration of each transfer should be given as well as the number of shares transferred on each date. The particulars should be placed opposite the name of the transferor and not opposite that of the transferee, but the name of the transferee may be inserted in the "Remarks" column immediately opposite the particulars of each transfer.

‡When the shares are of different classes these columns may be subdivided so that the number of each class held or transferred may be shown separately.

FORM F

FORM OF STATEMENT TO BE PUBLISHED BY SOCIETIES,
AND OTHER ASSOCIATIONS

(Section 118)

*The share capital of the Company is _____, divided into
shares of _____ each.

The number of shares issued is _____
Calls to the amount of _____ dollars per share have been
made, under which the sum of _____ dollars has been
received.

The liabilities of the Company on the first day of January
(or July) were:—

Debts owing to sundry persons by the Company—

On judgment, \$ _____

On specialty, \$ _____ .

On notes or bills, \$ _____

On simple contracts, \$ _____

On estimated liabilities, \$ _____ .

The assets of the Company on that day were—

Government securities (stating them),

Bills of exchange and promissory notes, \$ _____

Cash at the bankers, \$ _____

Other securities, \$ _____

*If the Company has no share capital, the portion of the Statement relating to capital and shares
must be omitted.

STATEMENT IN LIEU OF PROSPECTUS

(Section 90)

<p>The nominal share capital of the company</p>	<p>§</p>
<p>Divided into.....</p>	<p>Shares of § each. Shares of § each. Shares of § each.</p>
<p>Names, descriptions and addresses of directors or proposed directors.</p>	
<p>Minimum subscription (if any) fixed by the Memorandum or Articles of Association on which the Company may proceed to allotment.</p>	
<p>Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash. The consideration for the intended issue of those shares and debentures.</p>	<p>1. shares of § fully paid. 2. shares upon which § per share credited as paid. 3. debenture , § 4. Consideration.</p>
<p>(a) For definition of vendor, see section 89(2) of the Companies Ordinance. (b) See section 89(3) of the Companies Ordinance</p>	<p>Names and addresses of (a) vendors of property purchased or acquired, or proposed to be (b) purchased or acquired by the Company. Amount (in cash, shares, or debentures) payable to each separate vendor.</p>
<p>Amount (if any) paid or payable (in cash or shares or debentures) for any such property specifying amount (if any) paid or payable for goodwill.</p>	<p>Total purchase price.....§ Cash..... Shares..... Debentures..... Goodwill.....§</p>
<p>Amount, (if any) paid or payable as commission for subscribing or agreeing to subscribe, or procuring or agreeing to procure, subscriptions for any shares or debentures in the Company; or, Rate of the commission.....</p>	<p>Amount paid. Amount payable. Rate per cent.</p>

STATEMENT IN LIEU OF PROSPECTUS—
Concluded

Estimated amount of preliminary expenses.....	\$
Amount paid or intended to be paid to any promoter. Consideration for the payment.	Name of promoter. Amount, \$ Consideration.
Dates of and parties to every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company, or entered into more than two years before the filing of this statement).	
Time and place at which the contracts or copies thereof may be inspected.	
Names and addresses of the auditors of the Company (if any).	
Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the Company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become or to qualify him as a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the Company.	
Whether the articles contain any provisions precluding holders of shares or debentures receiving and inspecting balance-sheets or reports of the auditors or other reports.	Nature of the provisions.

(Signatures of the persons above named as directors or proposed directors, or of their agents authorized in writing). }

CHAPTER C-11

CONDITIONAL SALES ORDINANCE

1. This Ordinance may be cited as the *Conditional Sales Ordinance*. R.O. 1958, c. 20, s. 1. Short title

2. (1) In this Ordinance Definitions

“buyer” means the person who buys or hires the goods covered by a conditional sale, or any legal successor in interest of such person ; “buyer”

“conditional sale” means “conditional sale”

(a) any contract for the sale of goods under which possession is, or is to be delivered to the buyer and the property in the goods is to vest in him at a subsequent time upon payment of the whole or part of the price or the performance of any other condition, or

(b) any contract for the hiring of goods by which it is agreed that the hirer shall become, or have the option of becoming, the owner of the goods upon full compliance with the terms of the contract ;

“creditor” means a creditor of a buyer who becomes a creditor before the registration of a conditional sale or renewal statement, as the case may be, and, for the purpose of enforcing the rights of such a creditor, includes “creditor”

(a) a creditor suing on behalf of himself and other creditors,

(b) an assignee for the general benefit of creditors

(c) a trustee under the *Bankruptcy Act*, and

(d) a liquidator of a company under the *Winding-up Act (Canada)* or under any provincial act containing provisions for the winding-up of companies,

without regard to the time when he becomes a creditor or is appointed assignee, trustee or liquidator ;

“goods” means all chattels personal other than things in action or money, and includes emblements, industrial growing crops, and things attached to or forming part of the land that are agreed to be severed before sale or under the contract of sale ; “goods”

“proper officer” means the officer with whom bills of sale and chattel mortgages are registered or filed ; “proper officer”

- "registration district" "registration district" means a registration district established under the *Bills of Sale Ordinance*;
- "seller" "seller" means the person who sells or lets to hire the goods covered by a conditional sale, or any legal successor in interest of such person ;
- "subsequent purchaser" "subsequent purchaser" means a person who acquires an interest in goods after the making of a conditional sale thereof, R.O. 1958, c. 20, s. 2 ; 1964 (2nd) c. 9, s. 1(1)(2).

Property in goods delivered under conditional sales to remain in seller **3. (1)** Where possession of goods has been delivered to a buyer under a conditional sale, unless the conditional sale is evidenced and registered in accordance with this Ordinance, every provision contained therein whereby the property in the goods remains in the seller is void as against a creditor, and as against a subsequent purchaser claiming from or under the buyer in good faith, for a valuable consideration and without notice; and the buyer shall, notwithstanding such a provision, be deemed as against the seller to be the owner of the goods.

Contents of conditional sale contract **(2)** A conditional sale of goods shall be evidenced by a writing, executed by the buyer or his agent prior to, at the time of, or within ten days after delivery of the goods,

- (a) giving a description of the goods by which they may readily and easily be known and distinguished, and
- (b) stating the amount of the purchase price remaining unpaid and the terms and conditions of payment thereof or the terms and conditions of the hiring, as the case may be.

Registration **(3)** The writing or a copy thereof shall be registered, within thirty days from the date of its execution,

- (a) in the registration district in which the buyer resided at the time of the making of the conditional sale, or
- (b) where his residence is outside the Territory, in the registration district in which the goods are delivered.

(4) Where the buyer resides in one registration district and the goods are delivered to him in another, an original of the writing made pursuant to this section or a true copy thereof shall be filed in the registration district in which the delivery is made as well as in that of the buyer' residence.

Registration of contracts for goods removed into other registration district **(5)** Where a buyer permanently removes any goods that are the subject of a conditional sale into a registration district other than that in which they were situated at the time of the execution of the writing evidencing the sale, the conditional

sale of those goods ceases to be valid as against any creditor or subsequent purchaser claiming from or under the buyer in good faith for valuable consideration and without notice, whose conveyance or mortgage has been registered or is valid without registration, unless that writing is registered in the office of the proper officer of the registration district into which the goods have been removed by filing within thirty days after the seller has received notice of the place to which the goods have been removed, a copy of the writing and of the documents accompanying it or relating to it or filed on the registration or renewal thereof, certified as copies by the proper officer in whose office the writing was registered or was last renewed.

(6) Where goods that are the subject of a conditional sale are brought into the Territory and are subject to an agreement made or executed outside the Territory that provides that the right of property therein or the right of possession thereof, in whole or in part, remains in the seller notwithstanding that the actual possession of the goods passes to the buyer, then unless,

Registration of contract for goods brought into Territory

- (a) the agreement contains such a description of the goods that they may readily and easily be known and distinguished; and
- (b) a copy of the agreement is registered, within thirty days after the seller has received notice of the place to which the goods have been brought, in the registration district into which the goods are brought,

the seller is not entitled to set up any right of property in or right of possession to the goods as against a creditor or a subsequent purchaser claiming from or under a buyer in good faith for valuable consideration and without notice, and the buyer shall, notwithstanding such agreement, be deemed as against any such seller to be the owner of the goods.

(7) Where the buyer is a corporation, the residence of that buyer shall for the purposes of this section be deemed to be at the place where the principal place of business of the corporation in the Territory is situated. R.O. 1958, c. 20, s. 3; 1964 (2nd) c. 9, s. 2(1)(2).

4. (1) Where an agreement has been made outside the Territory with reference to goods not then in the Territory, by which, under the law governing the agreement, the seller has, upon default in payment of the price or the insolvency of the buyer,

Contracts made outside the Territory

- (a) a right of revendication,
- (b) a preference for the price of the goods sold, or

(c) a right to a dissolution of the sale and to resumption of possession of the goods notwithstanding the possession of the buyer,

and the goods are brought into the Territory, unless the agreement is registered within thirty days after the seller has received notice of the place to which the goods have been brought, in the registration district into which the goods are brought, the seller is not entitled to any of the remedies mentioned in paragraph (a), (b) or (c) as against a creditor or as against a subsequent purchaser claiming from or under the buyer in good faith for valuable consideration, and without notice. 1964 (2nd) c. 9, s. 3.

Renewal statement

5. (1) Where a writing or a true copy thereof referred to in section 3 has been filed in accordance with that section, a renewal statement and an affidavit in respect thereof shall be filed in accordance with this section within three years after the day of the filing of the writing.

Contents of renewal statement

(2) A renewal statement filed pursuant to this section shall set out the interest of the seller in the goods comprised in the conditional sale and the amount still owing for principal and interest under the conditional sale and of all payments made on account thereof, and shall be accompanied by an affidavit by the seller or his agent stating that the statement is true and that the conditional sale has not been kept in force for any fraudulent purpose or to defeat, delay or prejudice the creditors of the buyer.

Place of filing

(3) The renewal statement and affidavit referred to in subsection (2) shall be filed,

(a) in the case of goods situate in the registration district in which the writing evidencing the conditional sale or a true copy thereof was filed in accordance with subsection 3(2) or 3(3), with the proper officer of that registration district, and

(b) in the case of any goods comprised in the conditional sale that have been removed to a registration district other than that mentioned in paragraph (a) where the writing evidencing the conditional sale or a true copy thereof has been filed pursuant to subsection 3(4) or 3(5), with the proper officer of the registration district where the goods were removed.

Further renewal statement

A further renewal statement accompanied by an affidavit shall be filed in accordance with subsection (2) and (3) within the period of three years from the filing of the first renewal statement and thereafter within each succeeding period of

three years from the filing of the last preceding renewal statement.

(5) Where any mistake is made in a renewal statement filed pursuant to this section, the seller may file an amended statement clearly pointing out the mistake therein and correcting it. Correcting mistake

(6) Where before the filing of an amended statement and affidavit referred to in subsection (5) a person has in good faith made an advance of money or given valuable consideration to the buyer or has incurred costs in proceedings taken relying on the accuracy of the renewal statement as first filed, the conditional sale as to the amount so advanced or the valuable consideration given or costs incurred by such person shall, as against him, stand good only for the amount stated in the renewal statement as first filed. R.O. 1958, c. 20, s. 4. Effect of interest intervening before filing amended statement

6. (1) Where the goods are delivered to a trader or other person and the seller expressly or impliedly consents that the buyer may resell them in the course of business, and such trader or other person resells the goods in the ordinary course of his business, the property in the goods shall pass to the purchaser notwithstanding the other provisions of this Ordinance. R.O. 1958, c. 20, s. 5. Sale in course of business

7. (1) The seller shall deliver a copy of the writing evidencing a conditional sale to the buyer within twenty days after the execution thereof, and if, after request, he neglects or refuses to do so a judge may, on summary application, make an order for the delivery of such copy. R.O. 1958, c. 20, s. 6. Copy of contract to be delivered to buyer

8. (1) The proper officer shall cause every conditional sale and every renewal statement registered in his office to be Index, etc.

- (a) numbered;
- (b) endorsed with a memorandum of the date, hour and minute of its filing; and
- (c) indexed by entering in alphabetical order in a register kept by him
 - (i) the names of the parties to the conditional sale,
 - (ii) its number, and
 - (iii) the date, hour and minute of its filing.

(2) The Commissioner may by regulation prescribe that separate index books shall be kept by the proper officer of any registration district for the entries of writings respecting

conditional sales of any certain class of goods. R.O. 1958, c. 20, s. 7; 1964 (2nd) c. 9, s. 4.

Effect of defects,
irregularities
and omissions

9. (1) A document to which this Ordinance applies shall not be invalidated or its effect destroyed by reason only of a defect, irregularity, omission or error therein or in the execution or attestation thereof unless, in the opinion of the judge before whom a question relating thereto is tried, the defect, irregularity, omission or error has actually misled some person whose interests are affected by the document. R.O. 1958, c. 20, s. 8; 1964 (2nd) c. 9, s. 5.

Seller supplying
statement

10. (1) The seller shall, within five days after the receipt of a request from any person proposing to purchase the goods or from any actual or intending creditor of the buyer or from any other interested person, accompanied by a sufficient amount in money or postage stamps to pay the postage on a reply by registered letter, furnish particulars of the amount remaining due to the seller and the terms of payment and in default he is liable, on summary conviction, to a fine not exceeding fifty dollars.

(2) The person making the request referred to in subsection (1) shall give a name and post office address to which a reply may be sent, and it is sufficient if the information is sent by prepaid registered mail within the prescribed time addressed to the name and post office address so given. R.O. 1958, c. 20, s. 9.

Buyer to give
notice of
removal, sale,
etc.

11. (1) Except for temporary purposes for a period of not more than twenty days, the buyer shall not remove the goods into another registration district unless he has, at least ten days before such removal, given the seller personally or by registered mail, written notice of the place to which the goods are to be removed and the approximate time of the intended removal.

(2) The buyer shall not, prior to the complete performance of the contract, sell, mortgage, charge or otherwise dispose of his interest in the goods, unless he, or the person to whom he is about to sell, mortgage, charge or otherwise disposed of same, has notified the seller in writing, personally or by registered mail, of the name and address of such person, not less than ten days before such sale, mortgage, charge, or other disposal.

(3) Where the buyer removes the goods or disposes of his interest in them contrary to this section, the seller may retake possession of the goods and deal with them as in case of

default in payment of all or part of the purchase price. R.O. 1958, c. 20, s. 10.

12. (1) Where the seller retakes possession of the goods pursuant to any condition in the contract, he shall retain them for twenty days, and the buyer may redeem the same within that period by paying or tendering to the seller the balance of the contract price, together with the actual costs and expenses of taking and keeping possession, or by performance or tender of performance of the condition upon which the property in the goods is to vest in the buyer and payment of such costs and expenses; and thereupon the seller shall deliver up to the buyer possession of the goods so redeemed.

Procedure if goods are taken possession of by seller

(2) Where the goods are not redeemed within the period of twenty days, and subject to the giving of the notice of sale as prescribed by this section, the seller may sell the goods, either by private sale or at public auction, at any time after the expiration of that period.

(3) Where the price of the goods exceeds thirty dollars and the seller intends to look to the buyer or any person guaranteeing payment of the amount due under the contract for any deficiency on a resale, the goods shall not be resold until after notice in writing of the intention to sell has been given to the buyer and such other person guaranteeing payment of the amount due under the contract.

(4) The notice referred to in subsection (3) shall contain :

- (a) a brief description of the goods;
- (b) an itemized statement of the balance of the contract price due and the actual costs and expenses of taking and keeping possession up to the time of the notice;
- (c) a demand that the amount as stated in the notice shall be paid on or before a day mentioned, not less than five days from the delivery of the notice, where it is personally delivered, or not less than seven days from the mailing of the notice, where it is sent by mail; and
- (d) a statement that, unless the amount as stated in the notice is paid within the time mentioned, the goods will be sold either at private sale or advertised and sold by public auction.

(5) The notice may be given by personal delivery to the buyer or by mailing it by prepaid registered mail addressed to the buyer at his latest known address.

(6) The notice may be given during the twenty days mentioned in subsection (1).

(7) This section applies notwithstanding any agreement to the contrary. R.O. 1958, c. 20, s. 11.

Discharge of conditional sales contract

13. (1) A conditional sales contract registered in accordance with this Ordinance may be discharged, in whole or in part, by the registration in the office or offices in which it is registered of a certificate of discharge signed by the seller and accompanied by an affidavit of an attesting witness of the execution thereof.

Entry of discharge

(2) The proper officer in whose office a certificate of discharge of a conditional sales contract is registered shall note the discharge

- (a) against each entry in the books of his office respecting the conditional sale ;
- (b) upon the writing evidencing the conditional sale or copy registered in his office ; and
- (c) upon every renewal statement respecting the conditional sale registered in his office.

Where contract registered in more than one district

(3) Where the goods affected by the discharge of a conditional sale are situated partly in one registration district and partly in one or more other districts, the registration of the discharge may be effected either

- (a) by registering a duplicate original of the certificate of discharge and the affidavit of execution in the office of the proper officer in each of the registration districts, or
- (b) by filing
 - (i) the certificate of discharge and affidavit of execution in one of the registration districts, and
 - (ii) a certificate of the entry of the discharge therein, signed by the proper officer of that registration district, in the other or each other registration district.

Certificate of entry

(4) The proper officer in whose office the certificate of discharge is registered shall on request and on payment of any fee prescribed by the Commissioner furnish a certificate of the entry of the discharge.

Certificate of discharge

(5) The seller of any goods that are the subject of a conditional sale shall.

- (a) upon payment or tender of any fee prescribed by the Commissioner and of the amount due in respect of the goods or upon performance of the conditions of the sale, and

- (b) upon written demand delivered personally or by registered mail by the buyer or any other person having an interest in the goods,

sign and deliver personally or by registered mail to the person demanding it a certificate of discharge and an affidavit of an attesting witness of the execution thereof.

(6) Where for ten days after receipt of the demand mentioned in subsection (5) the seller without reasonable cause fails to deliver the required certificate and affidavit, he is liable to the person demanding it for the damages resulting from such failure. R.O. 1958, c. 20, s. 12; 1964 (2nd) c. 9, s. 6.

Failure to deliver certificate

14. (1) A valid assignment in writing of a conditional sale transfers the assignor's rights of property in the goods therein comprised, his right of seizure, removal and sale, and all other rights that he possesses for enforcement of the conditional sale. R.O. 1958, c. 20, s. 13.

Transfer of property in goods

15. (1) A copy of a document certified by the proper officer as being registered in accordance with this Ordinance is receivable in evidence as *prima facie* proof of

Evidence

- (a) the execution of the original document; and
 (b) the date, hour and minute of the registration of the document.

(2) No proof is required of the signature of official position of any proper officer certifying a document pursuant to subsection (1). R.O. 1958, c. 20, s. 14; 1964 (2nd) c. 9, s. 7.

Idem

16. (1) A judge, upon being satisfied that an omission to register a conditional sale or a contract renewal statement within the time prescribed by this Ordinance or that an omission or mis-statement in a document registered under this Ordinance was accidental or due to inadvertence, impossibility or other sufficient cause, may, subject to the rights of other persons accrued by reason of the omission or misstatement, extend the time for registration or order the omission to be rectified, on such terms and conditions as he directs.

Extension of time for registration

(2) Any order made under subsection (1) or a copy thereof shall be filed with the proper officer who shall attach it to the document registered or tendered for registration and shall make appropriate entries in the register.

Idem

(3) The rights of other persons accrued up to the time of the filing of the order or a copy thereof with the proper

Rights protected

officer, pursuant to subsection (2), are not affected by the order. 1964 (2nd) c. 9, s. 7.

Fees

17. (1) The Commissioner may make regulations prescribing the fees to be charged for services performed under this Ordinance.

(2) The fees mentioned in subsection (1) shall be paid to the Territorial Treasurer and shall form part of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 20, s. 15; 1964 (2nd) c.9, s. 8.

Expiry of time
when office
closed

18. (1) Where the time for the registration of a document under this Ordinance expires on a day on which the office in which the registration is to be made is closed, the registration, so far as regards the time of registration, is valid if made on the next following day on which the office is open. 1964 (2nd) c. 9, s. 9.

Inspection of
records

19. (1) Any person may, during office hours, and upon payment of any fees prescribed by the Commissioner inspect any document registered or filed under this Ordinance and any books containing records or entries of such documents. 1964 (2nd) c. 9, s. 9.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER C-12

CONDOMINIUM ORDINANCE

1. This Ordinance may be cited as the *Condominium Ordinance, 1968 (4th) c. 1, s. 1.* Short title

2. (1) In this Ordinance Definitions

“architect” means a person who is authorized to practice as an architect in any province; “architect”

“board” means the board of directors of a corporation; “board”

“buildings” means the buildings included in a property; “buildings”

“by-law” means a by-law of a corporation; “by-law”

“claim” includes a right, title, interest, encumbrance or demand of any kind affecting land, but does not include the interest of an owner in his unit and common interest; “claim”

“common elements” means all the property except the units; “common elements”

“common expenses” means the expenses of a performance of the objects and duties of a corporation and any expenses specified as common expenses in a declaration or in section 7; “common expenses”

“common interest” means the interest in the common elements appurtenant to a unit; “common interest”

“corporation” means a corporation incorporated under this Ordinance; “corporation”

“declaration” means a declaration to which reference is made in section 6 and includes any amendments thereto; “declaration”

“encumbrance” means a claim that secures the payment of money or the performance of any other obligation and includes a charge, a mortgage and a lien; “encumbrance”

“land” means land, whether leasehold or in fee simple under the provisions of the *Land Titles Act (Canada)*; “land”

“owner” means the owner of the freehold estate or leasehold estate in a unit and common interest, but does not include a mortgage unless the mortgagee is in possession; “owner”

"plan"	"plan" means the plan to which reference is made in section 7 and includes any amendments thereto;
"property"	"property" means the land and interests appurtenant to the land described in the plan or subsequently added to the common elements;
"registered"	"registered" means registered under the <i>Land Titles Act (Canada)</i> ;
"registrar"	"registrar" means a registrar or deputy registrar appointed under the <i>Land Titles Act (Canada)</i> ;
"surveyor"	"surveyor" means a Dominion land surveyor;
"unit"	"unit" means a part of the land included in the plan and designated as a unit by the plan, and comprises the space enclosed by its boundaries and all the material parts of the land within this space at the time the declaration and plan are registered. 1968 (4th) c. 1, s. 2.

Meaning of other expressions **3.** (1) Words and expressions used in this Ordinance, and not defined in section 2 have the meanings assigned to them under the *Land Titles Act (Canada)*.

Ownership of space (2) For the purposes of this Ordinance, the ownership of, or leasehold interest in, land includes the ownership of, or leasehold interest in, space. 1968 (4th) c. 1, s. 3.

Objects **4.** (1) The objects of this Ordinance are to facilitate the division of property into parts that are to be owned or leased individually, and parts that are to be owned or leased in common, and to provide for the use and management of such properties and to expedite dealings therewith; and the Ordinance shall be construed in a manner to give the greatest effect to these objects. 1968 (4th) c. 1, s. 4.

Who may register declaration **5.** (1) A declaration and plan may be registered by or on behalf of the owner in fee simple, or the lessee, of the land described in the plan.

Effect of registration (2) Upon registration of a declaration and plan, the property described in the plan is governed by this Ordinance and the registrar shall

- (a) issue a certificate of title in the name of the corporation as hereinafter provided, which shall set forth that the certificate of title is issued pursuant to the *Condominium Ordinance*;
- (b) issue a separate certificate of title in the name of each owner for each unit described in the plan which shall

set forth the proportion of the common interest appurtenant to the unit, and that the certificate of title is issued pursuant to the *Condominium Ordinance*;

- (c) keep an index to be known as "Condominium Corporations Index";
- (d) keep a register to be known as "Condominium Register" in which declarations, plans, by-laws, notices of termination and other instruments respecting land governed by this Ordinance shall be registered, and the registration recorded. 1968 (4th) c. 1, s. 5.

6. (1) A declaration shall not be registered unless

Contents of
declaration

- (a) title to the land described therein is registered under the *Land Titles Act (Canada)*;
- (b) it is executed by the owner or lessee of the property;
- (c) it has been approved as to form by the registrar;
- (d) it contains the legal description of the land that is the subject of the declaration;
- (e) it contains the statement of intention that the land or the leasehold interest therein, and interests appurtenant to the land described in the plan be governed by this Ordinance;
- (f) it contains the consent of all persons having registered encumbrances against the land or interests appurtenant to the land described in the plan;
- (g) it contains a statement expressed in percentages allocated to the units of the proportions in which the owners are to contribute to the common expenses and to share in the common interest;
- (h) it contains an address for service.

(2) In addition to the matters mentioned in subsection (1) a declaration may contain

Further contents
of declaration

- (a) a specification of common expenses;
- (b) a specification of any parts of the common elements that are to be used by the owners of one or more designated units and not by all the owners;
- (c) provisions respecting the occupation and use of the units and common elements, but no such provision shall discriminate because of the race, creed, colour, nationality, ancestry or the place of origin of any person;
- (d) provisions restricting gifts, leases and sales of the units and common interest, but no such provision shall discriminate because of the race, creed, colour, nationality, ancestry or the place of origin of any person;

- (e) a specification of the number, qualification, nomination, election, term of office, compensation and removal of members of the board, and the meetings, quorum, functions and officers of the board ;
- (f) a specification of the duties of the corporation consistent with its objects ;
- (g) a specification of the majority required to make by-laws of the corporation ;
- (h) provisions regulating the assessment and collection of contributions towards the common expenses ;
- (i) provisions respecting the priority of a lien for unpaid assessment ;
- (j) a specification of the majority required to make substantial changes in the common elements and the assets of the corporation ;
- (k) a specification of any provision requiring the corporation to purchase the units and common interests of any owners who dissented after a substantial addition, alteration or improvement to, or renovation of, the common elements has been made or after the assets of the corporation have been substantially changed ;
- (l) a specification of any allocation of the obligations to repair and to maintain the units and common elements ;
- (m) a specification of the percentage of substantial damage to the buildings and a specification of the majority required to authorize repairs under section 20 ;
- (n) a specification of the majority required for a sale of the property or a part of the common elements ;
- (o) a specification of the majority required for the termination of the government of the property under this Ordinance ;
- (p) any other matters concerning the property ; or
- (q) any or all of such matters.

Amendment of
declaration

(3) All matters contained in a declaration, except the address for service, may be amended only with the written consent of all owners, and all persons having registered encumbrances against the units and common interests.

Registration of
amendment

(4) Where a declaration is amended, the corporation shall register a copy of the amendment either

- (a) executed by all the owners and all persons having registered encumbrances against the units and common interests, or
- (b) accompanied by a certificate under the seal of the corporation certifying that all the owners and all per-

sons having registered encumbrances against the units and common interests have consented in writing to the amendment.

and until the copy is registered, the amendment is ineffective. 1968 (4th) c. 1, s. 6.

7. (1) A plan shall delineate the perimeter of the horizontal surface of the land, and the perimeter of the buildings in relation thereto, and shall contain Contents of plan

- (a) structural plans of the buildings;
- (b) a specification of the boundaries of each unit by reference to the buildings;
- (c) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings;
- (d) a certificate of a surveyor certifying that he was present at and personally superintended the survey represented by the plan, and that the survey and plan are correct;
- (e) a certificate of an architect certifying that the buildings have been constructed and that the diagrams of the units are substantially accurate, and substantially in accordance with the structural plans; and
- (f) a description of any interest appurtenant to the land that is included in the property.

(2) A plan and any amending plan shall not be registered unless it has been approved by the Surveyor General of Canada. Approval of plan

(3) The plan may be amended only with the written consent of all owners and all persons having registered encumbrances against the units and common interests. Amendment of plan

(4) Where a plan is amended, the corporation shall register a copy of the amended plan either Registration of amendment

- (a) executed by all the owners and all persons having registered encumbrances against the units and common interests, or
- (b) accompanied by a certificate under the seal of the corporation certifying that all the owners and all persons having registered encumbrances against the units and common interest have consented in writing to the amendments.

and until the copy is registered, the amendment is ineffective. 1968 (4th) c. 1, s. 7.

Nature of units and common interests	8. (1) Units and common interests are real property for all purposes and the unit and common interest appurtenant thereto provided therein may devolve or be transferred, leased, mortgaged, or otherwise dealt with in the same manner and form as any land the title to which is registered under the <i>Land Titles Act (Canada)</i> .
Ownership of units	(2) Subject to this Ordinance, the declaration and the by-laws, each owner is entitled to exclusive ownership and use of his unit.
Dangerous activities	(3) No condition shall be permitted to exist, and no activity shall be carried on, in any unit or the common elements that are likely to damage the property.
Right to enter	(4) The corporation, or any person authorized by the corporation, may enter any unit at any reasonable time to perform the objects and duties of the corporation. 1968 (4th) c. 1, s. 8.
Ownership	9. (1) The owners are tenants in common of the common elements.
Common elements	(2) An undivided interest in the common elements is appurtenant to each unit.
Use of common elements	(3) Subject to this Ordinance, the declaration and the by-laws, each owner may make reasonable use of the common elements.
Ownership not to be separated	(4) Except as provided by this Ordinance, no share in the common elements shall be dealt with except with the unit of the owner; and any instrument dealing with a unit shall operate to deal with the share of the owner in the common elements without express reference thereto.
No partition	(5) Except as provided in this Ordinance, the common elements shall not be partitioned or divided.
Encumbrance not enforceable saving	(6) No encumbrance is enforceable against the common elements after the declaration and plan are registered.
	(7) An encumbrance which except for subsection (6) would be enforceable against the common elements, is enforceable against all the units and common interests.
Discharge	(8) Any unit and common interest may be discharged from an encumbrance by payments to the claimant of a portion of the sum claimed determined by the proportions specified in the declaration for sharing the common expenses.

(9) Upon payment of a portion of the encumbrance sufficient to discharge the encumbrance insofar as it affects a unit and common interest, and upon demand, the claimant shall give to the owner of that unit a discharge of the encumbrance insofar as it affects that unit and common interests.

Discharge on demand

(10) For the purposes of municipal assessment and taxation each unit and common interest constitute a parcel, and the common elements do not constitute a parcel.

Assessment for taxation

(11) For the purpose of determining liability resulting from breach of the duties of an occupier of land, the corporation shall be deemed to be occupiers of the common elements and the owners shall be deemed not to be occupiers of the common elements. 1968 (4th) c. 1, s. 9.

Where corporation deemed to be occupier

10. (1) The following easements are created and are appurtenant to each unit:

Easement appurtenant to units

- (a) Where a building or any part of a building
 - (i) moves after registration of the declaration and plan, or
 - (ii) after having been damaged and repaired, is not restored to the position occupied at the time of registration of the declaration and plan,
 an easement for exclusive use and occupation in accordance with this Ordinance, the declaration and the by-laws, over the space of the other units and common elements that would be space included in the unit, if the boundaries of the unit were determined by the position of the buildings from time to time after registration of the plan and not at the time of registration;
- (b) An easement for the provision of any service through any installation in the common elements or any other unit;
- (c) An easement for support and shelter by the common elements and any other unit capable of providing support or shelter.

(2) The following easements are created and are appurtenant to the common elements;

Easements appurtenant to common elements

- (a) an easement for the provision of any service through any installation in any unit;
- (b) an easement for support and shelter by any unit capable of providing support and shelter.

- Ancillary rights

(3) All ancillary rights and obligations reasonably necessary to make easements effective shall apply in respect of easements implied or created by this Ordinance. 1968 (4th) c. 1, s. 10.
- Creation of corporation

11. (1) Upon registration of a declaration and plan, there is created a corporation without share capital having a name comprised of the following components;

 - (a) the place or district;
 - (b) the words "Condominium Corporation"; and
 - (c) the abbreviation "No." together with a number which shall be the next available consecutive number in the Condominium Corporations Index.
- Members

(2) The members of the corporation are the owners and they shall share the assets of the corporation in the proportions as provided in the declaration.
- Companies Ordinance* not to apply

(3) The *Companies Ordinance* does not apply to a corporation.
- Objects of corporation

(4) The objects of the corporation are to manage the property of the owners, and any assets of the corporation.
- Responsibilities of corporation

(5) The corporation is responsible for the control, management and administration of the common elements.
- Control of corporation

(6) The corporation shall be regulated in accordance with the declaration and the by-laws.
- Records of corporation

(7) The corporation shall keep adequate records and any member of the corporation may inspect records at any reasonable time on reasonable notice.
- Change of address

(8) Upon there being a change of address for service from that set out in the declaration as required by subsection 6(1), the corporation shall immediately register a notice of change of address for service, and the registrar shall amend the declaration accordingly.
- Real and personal property

(9) The corporation may own, acquire, encumber and dispose of real and personal property for the use and enjoyment of the owners.
- Corporation may sue and be sued

(10) The corporation shall have a common seal and may sue and be sued; and in particular may bring an action with respect to the common elements and may be sued in respect of any matter connected with the property for which the owners are jointly liable.

(11) A judgment for the payment of money against the corporation is also a judgment against each owner at the time the cause of action arose for a portion of the judgment determined by the proportions specified in the declaration for sharing the common expenses.

Judgment
against corpora-
tion

(12) Where the owners and the property cease to be governed by this Ordinance,

Effect of
termination

(a) the assets of the corporation shall be used to pay any claims for the payment of money against the corporation; and

(b) the remainder of the assets of the corporation shall be distributed among the members of the corporation in the same proportions as the proportions of their common interest. 1968 (4th) c. 1, s. 11.

12. (1) The affairs of the corporation shall be managed by a board of directors whose number, qualification, nomination, election, term of office, compensation and removal from the board shall be as provided in the declaration or the by-laws.

Board of
directors

(2) The board of directors shall hold meetings, perform functions, elect officers, and carry out duties as provided in the declaration or by-laws.

Duties of board

(3) The acts of a member of the board or an officer of the board done in good faith are valid notwithstanding any defect that may thereafter be discovered in his election or qualifications. 1968 (4th) c. 1, s. 12.

Defects in
election, etc.

13. (1) The corporation, by a vote of members who own sixty-six and two-thirds percent, or such greater percentage as is specified in the declaration, of the common elements, may make or amend by-laws

By-laws

(a) governing the management of the property;

(b) governing the use of units or any of them for purposes of preventing unreasonable interference with the use and enjoyment of the common elements and other units;

(c) governing the use of the common elements;

(d) regulating the maintenance of the units and common elements;

(e) governing the use and management of the assets of the corporation;

(f) respecting the board;

- (g) specifying duties of the corporation consistent with its objects;
- (h) regulating the assessment and collection of contributions towards the common expenses; and
- (i) respecting the conduct generally of the affairs of the corporation.

By-laws consistent with Ordinances

(2) The by-laws shall be reasonable and consistent with this Ordinance and the declaration.

Registration

(3) When a by-law is made, amended or repealed by the corporation, the corporation shall register a copy of the by-law, amendment or repeal together with a certificate executed by the corporation certifying that the by-law, amendment or repeal was made in accordance with this Ordinance, the declaration and the by-laws and until the copy and certificate are registered, the by-law is ineffective.

Prohibition

(4) No by-law or amendment or repeal thereof shall be capable of operating to prohibit or restrict the devolution of a unit or any transfer, lease, mortgage or other dealing therewith, or to destroy or modify any easement implied or created under this Ordinance.

Rules for common elements

(5) The by-laws may provide for the owners making reasonable rules consistent with this Ordinance, the declaration and the by-laws respecting the use of the common elements for the purposes of preventing unreasonable interference with the use and enjoyment of the units and the common elements and the rules shall be complied with and enforced in the same manner as the by-laws. 1968 (4th) c. 1, s. 13.

Compliance by owners

14. (1) Each owner is bound by, shall comply with, and has a right to the compliance by the owners with, this Ordinance, the declaration and the by-laws; and the corporation has a duty to effect such compliance.

Compliance by others

(2) The corporation and each person having an encumbrance against a unit and common interest has a right to the compliance by the owners with this Ordinance, the declaration and the by-laws.

Performance of duty of corporation

(3) Each member of the corporation and each person having an encumbrance against a unit and a common interest has the right to performance of any duty of the corporation specified by this Ordinance, the declaration or the by-laws. 1968 (4th) c. 1, s. 14.

Common expenses

15. (1) The corporation shall

- (a) establish a fund for the payment of the common expenses to which fund the owners shall contribute in proportions specified in the declaration ;
- (b) assess and collect the owner's contributions towards the common expenses as regulated by the declaration and the by-laws ;
- (c) pay the common expenses ;
- (d) have the right to recover from any owner by an action for debt
 - (i) the unpaid amount of any assessment,
 - (ii) any sum of money expended by it for repairs to or work done by it or at its direction in complying with any notice or order by a competent public or local authority in respect of that portion of the building comprising the unit of that owner, and
 - (iii) any sum of money expended by it for repairs done by it under subsection 19(6) for the owner ;
- (e) have a right of lien for the unpaid amount of any assessment or account that the corporation has the right to recover from the owner under paragraph (d), which right of lien shall, upon registration of a notice of lien, be a lien against the unit and common interest of the defaulting owner, and have priority over all encumbrances unless otherwise provided in the declaration ;
- (f) have the right to enforce the lien in the same manner as a mortgage is enforced under the *Land Titles Act (Canada)*; and
- (g) on the application of an owner or a purchaser of a unit and common interest certify
 - (i) the amount of any assessment and accounts owing by the owner to the corporation and for which the corporation has a lien or right of lien against the unit and common interest of the owner,
 - (ii) the manner in which the assessment and the accounts are payable, and
 - (iii) the extent to which the assessment and accounts have been paid by the owner,
 and in favour of any person dealing with that owner, the certificate is conclusive proof of the matters certified therein.

(2) The obligation of an owner to contribute towards the common expenses shall not be avoided by waiver of the right to use the common elements or by abandonment.

No avoidance of expenses

Discharge of lien (3) Upon payment of the unpaid amount in respect of which a lien has been registered as provided in paragraph (1) (e) and upon demand, the corporation shall give a discharge of the line. 1968 (4th) c. 1, s. 15.

Voting **16. (1)** The owners shall have voting rights in the corporation in the proportions provided in the declaration.

Voting by mortgagee (2) Where a registered mortgage of a unit and common interest contains a provision that authorizes the mortgagee to exercise the right of the owner to vote or to consent, the mortgagee may exercise the right, if he has given written notice of his mortgage to the corporation and the address for service of notices on him; and where two or more mortgages contain such a provision, the right to vote or consent shall be exercisable by the mortgagee who has priority.

Voting by minors, etc. (3) Any powers of voting conferred by this Ordinance, the declaration, or the by-laws may be exercised, or any consent required to be given under this Ordinance, the declaration or the by-laws may be given, or any document required to be executed under this Ordinance, the declaration or the by-laws may be executed,

- (a) in the case of an owner who is an infant, by the guardian of his estate or, if no guardian has been appointed, by the Public Administrator;
- (b) in case of an owner who is an insane person, by the Public Administrator; or
- (c) in the case of an owner who is incapacitated for any other reason, by the person who, for the time being is authorized by law to control his property or if no such person can be found or is willing to act, by the Public Administrator.

Order of court (4) Where the court, upon application of the corporation or of any owner, is satisfied that there is no person capable or willing or reasonably available to exercise the power of voting, giving consent, or executing a document, in respect of a unit, the court

- (a) in cases where unanimous vote or unanimous consent is required by this Ordinance, the declaration or the by-laws, shall; and
- (b) in any other case, may in its discretion authorize the Public Administrator or some other fit and proper person, to exercise the power of voting, to give the consent or to execute the document, in respect of the unit.

(5) On giving authority under subsection (4), the court may make such order as it considers necessary or expedient to give effect to the authorization. 1968 (4th) c. 1, s. 16. Order of authorization

17. (1) The corporation may, by a vote of members who own sixty-six and two-thirds percent or such greater percentage as is specified in the declaration, of the common elements make any substantial addition, alteration or improvement to or renovation of the common elements, or may make any substantial change in the assets of the corporation; and the corporation may, by a vote of a majority of the members, make any other addition, alteration or improvement to or renovation of the common elements, or make any other change in the assets of the corporation. Substantial alterations

(2) The cost of any addition, alteration or improvement to or renovation of the common elements, and the cost of any substantial change in the assets of the corporation, are common expenses. Cost

(3) The declaration may provide that, if any substantial addition, alteration or improvement to, or renovation of, the common elements is made or if any substantial change in the assets of the corporation is made, the corporation shall, on demand of any owner who dissented, purchase his unit and common interest. Dissenters

(4) Where the corporation and the owner who dissented do not agree as to the purchase price of the unit and common interest, the owner who dissented may elect to have the fair market value of his unit and common interest determined by arbitration by serving a notice to that effect on the corporation, and the purchase price of his unit and common interest shall be the fair market value determined by arbitration and the *Arbitration Ordinance* shall apply. 1968 (4th) c. 1, s. 17. Arbitration

18. (1) The corporation shall insure its liability to repair the units and common elements after damage resulting from fire and such other risks as may be specified by the declaration or the by-laws, to the extent required by the declaration or the by-laws, and for this purpose the corporation has an insurable interest to the replacement value of the units and common elements. Duty to insure

(2) Notwithstanding subsection (1), and any other law relating to insurance, an owner may insure his unit in respect of any damage in a sum equal to the amount owing at the date of any loss referred to in the policy on a mortgage of his unit. Owner's right to insure

Payment to mortgagee	(3) Any payment by an insurer under a policy of insurance entered into under subsection (2) shall be made to the mortgagees if the mortgagees, or any of them, so require, in order of their priorities; and the insurer shall then be entitled to an assignment of the mortgage or a partial interest in the mortgage to secure the amount so paid.
Contributions	(4) A policy of insurance issued to a corporation under the authority of subsection (1) is not liable to be brought into contribution with any other policy of insurance except another policy issued on the same building under the authority of subsection (1).
Relation of owner's insurance	(5) A policy of insurance issued to an owner under the authority of subsection (2) is not liable to be brought into contribution with any other policy of insurance except another policy issued on the same unit under the authority of subsection (2).
Other insurance	(6) Subsections (1) and (2) do not restrict the capacity of any person to insure otherwise than as provided in those subsections. 1968 (4th) c. 1, s. 18.
Maintenance of units	19. (1) Each owner shall maintain his unit.
Maintenance of common elements	(2) The corporation shall maintain the common elements.
Duty to repair	(3) Subject to section 20, the corporation shall repair the units and common elements after damage.
Obligations to repair and maintain	(4) For the purposes of this Ordinance, the obligation to repair and the obligation to maintain are mutually exclusive; and the obligation to repair does not include any obligation to repair improvements made to units after registration of the declaration and plan.
Declaration of obligations in declaration	(5) Notwithstanding subsections (1), (2) and (3), the declaration may provide that <ul style="list-style-type: none"> (a) each owner shall, subject to section 20, repair his unit after damage; (b) the owners shall maintain the common elements or any part of the common elements; or (c) the corporation shall maintain the units or any part of the units.
Permission to repair	(6) The corporation shall make any repairs that an owner is obliged to make and that he does not make within a reasonable time.

(7) An owner shall be deemed to have consented to have repairs done to his unit by the corporation under this section. 1968 (4th) c. 1, s. 19. Consent by owner

20. (1) Where damage to the units and common elements occurs, the board shall determine within thirty days of the occurrence whether there has been substantial damage to the extent that the cost of repair would be twenty-five percent, or such greater percentage as is specified in the declaration, of the value of the units and common elements immediately prior to the occurrence. Determination of damage

(2) Where there has been a determination that there has been substantial damage as provided in subsection (1), and the owners who own sixty-six and two thirds percent of the units and common elements, or such greater percentage as is specified in the declaration, vote for repairs within sixty days of the determination, the corporation shall repair the damage. 1968 (4th) c. 1, s. 20. Vote for repair

21. (1) Where, on a vote, the owners do not vote for repair, the corporation shall, within ten days of the vote, register a notice of termination with the registrar. Termination by notice after substantial damage vote for repairs

(2) Where there has been no vote within sixty days of the determination that there has been substantial damage under subsection 20(1), the corporation shall, within ten days after the expiry of the sixty day period, register a notice of termination.

(3) Upon the registration of a notice of termination under subsections (1) or (2), Effect of registration of notice

- (a) the government of the property by this Ordinance is terminated;
- (b) the owners are tenants in common or lessees, as the case may be, of the land and interests appurtenant to the land described in the plan in the same proportions as their common interests;
- (c) claims against the land and the interests appurtenant to the land described in the plan created before the registration of the declaration and plan are as effective as if the declaration and plan had not been registered;
- (d) encumbrances against each unit and common interest created after the registration of the declaration and plan are claims against the interest of the owner in the land and interests appurtenant to the land described in the plan, and have the same priority they had before the registration of the notice of termination; and

- (e) all claims against the property created after the registration of the declaration and plan, other than the encumbrance mentioned in paragraph (d), are extinguished. 1968 (4th) c. 1, s. 21.

Termination by sale

22. (1) Sale of the property or any part of the common elements may be authorized

- (a) by a vote of owners who own sixty-six and two-thirds percent, or such greater percentage as is specified in the declaration, of the common elements; and
- (b) by the consent of the persons having registered claims against the property or the parts of the common elements as the case may be, created after the registration of the declaration and plan.

Execution of documents

(2) Where a sale of the property or any part of the common elements is authorized under subsection (1), the corporation shall

- (a) register a notice of termination which shall describe the property or the part of the common elements being sold and shall affect only such property; and
- (b) transfer the property or the part of the common elements being sold.

Notice of termination

(3) The notice of termination and the transfer shall

- (a) be executed by all the owners and all the persons having registered claims against the property or the part of the common elements being sold; or
- (b) be executed by the corporation and be accompanied by a certificate under the seal of the corporation certifying that the required percentage of owners as stipulated in the Ordinance or the declaration have voted in favour of the sale, and that all persons having registered claims against the property or the part of the common elements being sold have consented in writing to the sale.

Conclusiveness

(4) A certificate made under paragraph (3)(b) is conclusive proof of the facts stated therein

- (a) in favour of a purchaser of the parcel; and
- (b) in favour of the registrar.

Effect of registration

(5) Upon registration of the transfer, the registrar shall

- (a) endorse upon the certificate of title in the name of the corporation a memorial that the property or a part of the common elements, as the case may be, is no longer governed by this Ordinance;

- (b) in the case of a transfer of all of the property, cancel the certificates of title of each unit, and where necessary, dispense with the production of the duplicate certificate of title without complying with the provisions of section 165 of the *Land Titles Act (Canada)*; and
- (c) in the case of a transfer of part of the common elements, cancel the certificate of title for that part of the common elements being transferred.

(6) Upon registration of the transfer

Effect of registration on claims

- (a) registered claims against the land and interests appurtenant to the land created before the registration of the declaration and plan are as effective in respect of the property transferred and the registrar shall issue the certificates of title in respect of the property transferred clear of such registered claims;
- (b) registered claims against the property or the part of the common elements created after the registration of the declaration and plan are extinguished in respect of the property transferred clear of such registered claims.

(7) Subject to subsection (8), the owners share the proceeds of the sale in the same proportions as their common interest.

Proceeds

(8) Where a sale is made under this section, any owner who dissented may elect to have the fair market value of the property at the time of the sale determined by arbitration by serving notice to that effect on the corporation within ten days after the vote, and the *Arbitration Ordinance* shall apply; and the owner who served the notice is entitled to receive from the proceeds of the sale the amount he would have received if the sale price had been the fair market value as determined by arbitration.

Right of dissenters

(9) Where the proceeds of the sale are inadequate to pay the amount determined under subsection (8), each of the owners who voted for the sale is liable for a portion of the deficiency determined by the proportions of their common interests. 1968 (4th) c. 1, s. 22.

Where proceeds inadequate

23. (1) Termination of the government of the property under this Ordinance may be authorized

Termination by notice without sale

- (a) by a vote of the owners who own sixty-six and two-thirds percent. or such greater percentage as is specified in the declaration, of the common elements; and

- (b) by the consent of the persons having registered claims against the property created after the registration of the declaration and plan.

Notice of termination

(2) Where termination of the government of the property under this Ordinance is authorized under subsection (1), the corporation shall register a notice of termination which shall either

- (a) be executed by all the owners and all the persons having registered claims against the property created after the registration of the declaration and plan; or
- (b) be executed by the corporation and accompanied by a certificate under the seal of the corporation certifying that the required percentage of owners as stipulated in the Ordinance or the declaration and all the persons having registered claims against the property created after the registration of the declaration and plan had voted in favour of the termination of the government of the property.

Effect of registration

(3) Upon registration of a notice of termination under subsection (2), the provisions of subsection 21(3), shall apply. 1968 (4th) c. 1, s. 23.

Application to court

24. (1) Where

- (a) damage to units and common elements occurs,
- (b) all or part of the property is expropriated, or
- (c) the corporation or any owner, or any person having an encumbrance against a unit and common interest deems it advisable,

any interested party may apply to the court for an order terminating the government of the property under this Ordinance, or amending the declaration or the plan.

Considerations

(2) In determining whether to terminate the government of the property under this Ordinance, or to amend the declaration or the plan, the court shall consider

- (a) the scheme and intent of this Ordinance;
- (b) the rights and interests of the owners individually and as a whole;
- (c) what course of action would be most just and equitable; and
- (d) the probability of confusion and uncertainty in the affairs of the corporation or the owners if the court does not make an order under subsection (1).

(3) Where an order is made under subsection (1), the court may include in the order any provisions that the court considers appropriate in the circumstances including without limiting the generality of the foregoing, Order

- (a) directions for the payment of money by the corporation or by the owners or by some one or more of them ;
- (b) directions to adjust the effect of the order as between the corporation and the owners and as among the owners themselves ;
- (c) the application of insurance moneys or proceeds of the expropriation of common elements ; or
- (d) the transfer of the interests of owners of units which have been wholly or partially damaged or expropriated to the other owners.

(4) On any application to the court under this section any insurer who has insured the units and the common elements under subsection 18(1), may appear in person or by agent or counsel. Appearance by insurer

(5) The court may vary any order made by it under this section. 1968 (4th) c. 1, s. 24. Variation

25. (1) Where a duty, imposed by this Ordinance, the declaration or the by-laws, is not performed, the corporation, any owner, or any person having an encumbrance against a unit and common interest may apply to the court for an order directing the performance of the duty. Application to require performance of duties

(2) The court may by order direct performance of the duty and may include in the order any provisions that the court considers appropriate in the circumstances including Order

- (a) the appointment of an administrator for such time, and on such terms and conditions, as it deems necessary ; and
- (b) the payment of costs.

(3) An administrator appointed under subsection (2) shall Administrator

- (a) to the exclusion of the corporation, have such of the powers and duties of the corporation as the court shall order ;
- (b) have the right to delegate any of the powers so vested in him ; and
- (c) be paid for his services by the corporation, which payments are common expenses.

Saving clause (4) Nothing in this section restricts the remedies otherwise available for failure to perform any duty imposed by this Ordinance. 1968 (4th) c. 1, s. 25.

Regulations **26.** (1) For the purpose of carrying out the provisions of this Ordinance, the Commissioner may make regulations:

- (a) prescribing forms for use under this Ordinance; and
- (b) prescribing rules to cover cases for which no provision is made under this Ordinance. 1968 (4th) c. 1, s. 26.

CHAPTER C-13

CONSUMERS' PROTECTION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Consumers' Protection Ordinance*. 1971 (1st) c. 3, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

"assignee" includes any person in whom the right or benefit concerned has become vested, as a result of any assignment or series of assignments; "assignee"

"borrower" means a person borrowing money or obtaining credit and includes a buyer of goods or services on credit and a hirer of goods on hire-purchase; "borrower"

"buyer" includes a hirer on a retail hire-purchase; "buyer"

"cash price" of any goods or services means the price that would be charged by the seller for the goods or services to a buyer who paid cash for them at the time of purchase or hiring; "cash price"

"collection agent" means any person who "collection agent"

- (a) collects or attempts to collect money owing to others,
- (b) is used by others to levy distress or seize goods,
- (c) collects money under any name which differs from that of the creditor to whom the money is owed,
- (d) offers or undertakes to act for a debtor in arrangements or negotiations with his creditors or receives money from a debtor for distribution to his creditors,
- (e) solicits accounts for collection or offers or undertakes to collect debts for others either immediately or at a future date, or
- (f) writes letters, or makes telephone or personal calls on behalf of others for the purpose of inducing a debtor to pay a debt,

but does not include

- (g) a person who accepts payment of accounts on behalf of creditors but who does not otherwise negotiate with or in any way attempts to obtain payment from debtors in respect of the amount owing,
- (h) a chartered bank,
- (i) a credit union,

- (j) a trustee licensed under the *Bankruptcy Act* acting in that capacity,
- (k) a duly appointed officer of a court,
- (l) a barrister or solicitor entitled to practice in the Territory and acting in that capacity,
- (m) a trust company,
- (n) a real estate broker acting in that capacity, or a real estate salesman acting in that capacity,
- (o) an insurance agent acting in that capacity,
- (p) a mortgage broker acting in that capacity,
- (q) a person appointed under the *Companies Act* as a liquidator acting in that capacity, or
- (r) a person acting for a friend who receives no reward for his services;

"cost of borrowing"

"cost of borrowing" means

- (a) where used in connection with a retail sale or hire-purchase of goods or services or both otherwise than on variable credit, the difference between
 - (i) the total amount which the buyer is required to pay in the transaction (including any down payment and the value ascribed in the contract to any trade-in or other allowance to him), if all payments are made as they fall due, and
 - (ii) the total cash price as described in subsections 5(2) or 6(2), as the case may be,
- (b) where used in relation to a loan agreement, the difference between
 - (i) the total amount that the borrower has to pay in the transaction, if all payments are made as they fall due, and
 - (ii) the aggregate of the amounts described in paragraphs (a), (b), (c) or (d) of subsection 14(2) (other than any amount which is declared by section 21 to be part of the cost of borrowing) subject to such adjustment thereof as may be required by subsection 15(1) or 15(2), if applicable.
- (c) where used in relation to a transaction to which subsection 15(3) applies, the difference between
 - (i) the total amount which the borrower is required to pay in the transaction (including any down payment and the value ascribed in the agreement for any trade-in or other allowance to him), if all payments are made as they fall due, and
 - (ii) the aggregate of the total cash price of the goods or services, or both, being purchased and the

amounts described in paragraphs 15(3)(b) and 15(3)(c)

(d) where used in relation to variable credit, the charges that the buyer or borrower is required to pay periodically on the unpaid balance from time to time for the privilege of purchasing or borrowing on variable credit;

- "court" means the Territorial Court, and in a case where the amount of the loan made or credit extended is not greater than the limit of the jurisdiction of the Magistrate's Court, the Magistrate's Court and includes a magistrate sitting as a small debts official; "court"
- "credit grantor" means a person lending money or extending credit and includes a seller of goods or services on credit and a person letting goods on hire-purchase; "credit grantor"
- "debtor" includes a borrower and any person who is responsible for the payment of a debt by virtue of guaranteeing a borrower's liability to pay the debt; "debtor"
- "direct seller" means the person who, on behalf of a vendor, makes any offer, solicitation, proposal or approach which is intended to result in a sale to which Part VII applies; "direct seller"
- "goods" means chattels personal other than things in action or money, and includes, emblements, industrial growing crops and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale, and chattels which are to be affixed to land upon or after delivery thereof; "goods"
- "instalments of approximately equal amount" means a series of instalments in which the amount of any one instalment is not different from the equal amounts of all other instalments by more than one dollar multiplied by the number of instalments required to be paid; "instalments of approximately equal amount"
- "legal rate" of interest means the rate from time to time payable under the *Interest Act (Canada)* on liabilities on which interest is payable but no other rate is fixed; "legal rate"
- "loan agreement" means a document or memorandum in writing
 (a) evidencing a loan of money, or
 (b) made or given as security for a loan of money, or
 (c) made or given as security for a past indebtedness; "loan agreement"
- "money lender" means a person who carries on the business of money lending or advertises himself, or holds himself "money lender"

out in any way, as carrying on that business, but does not include a registered pawn broker as such ;

"mortgage, mortgagee, mortgage money, mortgagor"

"mortgage", "mortgagee", "mortgage money" and "mortgagor" have the meanings assigned to them by common law ;

"retail hire-purchase"

"retail hire-purchase" of goods means any hiring of goods from a person in the course of his business in which

- (a) the hirer is given an option to purchase the goods, or
- (b) it is agreed that upon compliance with the terms of the contract, the hirer will either become the owner of the goods or will be entitled to keep them indefinitely without any further payment,

except

- (c) a hiring in which the hirer is given an option to purchase the goods exercisable at any time during the hiring and which may be determined by the hirer at any time prior to the exercise of the option on not more than two months' notice without any penalty,
- (d) a hire-purchase of goods by a hirer who himself intends either to sell them or to relet them for hire by others,
- (e) a hire-purchase by a hirer who is a retailer of a vending machine or a bottle cooler to be installed in his retail establishment,
- (f) a hire-purchase in which the hirer is a corporation, and
- (g) a hire-purchase of goods the cash price of which exceeds eight thousand, five hundred dollars ;

"retail sale"

"retail sale" of goods or of services or of both means any contract of sale of goods or services or both made by a seller in the course of his business except

- (a) any contract of sale of goods which are intended for resale by the buyer in the course of his business,
- (b) any contract of sale to a retailer of a vending machine or a bottle cooler to be installed in his retail establishment,
- (c) any contract of sale to a corporation, and
- (d) a sale in which the cash price of the goods or services or both exceeds eight thousand, five hundred dollars ;

"sale"

"sale" includes any transaction whereby the whole or part of the price is paid or satisfied by the exchange of other property, real or personal ;

"sale of goods"

"sale of goods" includes any transaction in which goods are sold, whether separately or together with services ;

"sale of services" means furnishing or agreeing to furnish services and includes making arrangements to have services furnished by others and any transaction in which services are sold, whether separately or together with goods ; "sale of services"

"seller" includes a person who lets goods on hire by a retail hire-purchase ; "seller"

"services" includes "services"

- (a) work, labour and other personal services,
- (b) privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, funerals, cemetery accommodations and the like and,
- (c) insurance provided by a person other than the insurer ;

"time sale agreement" means an agreement evidencing a time sale ; "time sale agreement"

"time sale" means "time sale"

- (a) any retail sale of goods or of goods and services under which possession of the goods is to be delivered to the buyer, but the transfer of the property in the goods is to take place subsequently to such delivery upon payment by him of the whole or part of the price and cost of borrowing, if any, whether or not such transfer is also subject to the fulfillment of some other condition,
- (b) any retail hire-purchase of goods, and
- (c) for the purpose of sections 47-57, any retail sale of goods or of goods and services in which the seller takes back a chattel mortgage on those goods to secure payment of the whole or part of the price ;

"variable credit" means credit made available under an agreement whereby the credit grantor agrees to make credit available to be used from time to time, at the option of the borrower, for the purpose of the purchase from time to time of goods or services, and, without limiting the generality of the foregoing, includes credit arrangements commonly known as revolving credit accounts, budget accounts, cyclical accounts and other arrangements of a similar nature, but does not include any agreement or arrangement in which there is neither a cost of borrowing payable by the borrower nor any additional charge, other than court costs, payable by the borrower in the event of default ; "variable credit"

"vendor" means the person who makes on his own behalf or uses others to make on his behalf, any offer, solicitation, proposal or approach which is intended to result in a sale to which Part VII applies. 1971 (1st) c. 3, s. 2. "vendor"

Rules to determine price and cost of borrowing

- 3. (1)** For the purpose of determining whether
- (a) the cost of borrowing in a sale or hire-purchase exceeds ten dollars; or
 - (b) the cash price of goods or services or both comprised in a sale or hire-purchase exceeds eight thousand, five hundred dollars;

the following rules apply:

- (i) The cost of borrowing in all sales and hire-purchases which are part of the same transaction shall be added together.
- (ii) The cash price of goods and services comprised in all sales and hire-purchases which are part of the same transaction shall be added together.
- (iii) Unless the contrary is proved, all sales and hire-purchases made between the same seller and the same buyer on the same day shall be presumed to be part of the same transaction. 1971 (1st) c. 3, s. 3.

Application of Ordinance

- 4. (1)** Nothing in this Ordinance applies to any loan made by, or any security given to, the Industrial Development Bank, the Canadian Farm Credit Corporation, Central Mortgage and Housing Corporation, or the Commissioner. 1971 (1st) c. 3, s. 4.

PART I

DISCLOSURE OF COST OF BORROWING

Application of section

- 5. (1)** This section applies to every retail sale of goods or services or goods and services on credit in which there is any cost of borrowing payable by the buyer except

- (a) a sale made on variable credit; and
- (b) a sale in which the cost of borrowing does not exceed ten dollars.

Contents of agreement

- (2)** Every sale to which this section applies shall be evidenced by a writing signed by the buyer or his agent prior to, or at the time of delivery of the goods or performance of the services which contains a description of the goods or services and states

- (a) the cash price of the goods included in the sale;
- (b) the amount of any applicable delivery or installation charge, if not included in the cash price of the goods;
- (c) any insurance charges actually paid or to be paid by the seller to an insurer on behalf of the buyer on the buyer's request;

- (d) the registration fee, if any ;
- (e) the total cash price, being the aggregate of the amounts mentioned in paragraphs (a), (b), (c) and (d) ;
- (f) the amount or value of any down payment, trade-in or other allowance made to the buyer ;
- (g) the balance of the total cash price, being the difference between the total mentioned in paragraph (e) and the amount mentioned in paragraph (f) ;
- (h) the total cost of borrowing expressed as one sum in dollars and cents ;
- (i) the balance owing, being the aggregate of the balance mentioned in paragraph (g) and the amount mentioned in paragraph (h) ;
- (j) the details of the manner in which the balance owing is to be paid, as required by section 8 or 10 ;
- (k) the aggregate of the cost to the buyer being the total mentioned in paragraph (e) and the amount mentioned in paragraph (h) ;
- (l) the true annual rate of the cost of borrowing calculated in accordance with section 11 and the regulations, expressed as a percentage ; and
- (m) the total additional charge, if any, other than court costs, to be paid in the event of default expressed as a rate percentage per annum. 1971 (1st) c. 3, s. 5.

6. (1) This section applies to every retail hire-purchase of goods in which the cost of borrowing exceeds ten dollars. Application to hire-purchase

(2) Every hire-purchase to which this section applies shall be evidenced by a writing signed by the hirer or his agent prior to, or at the time of delivery of the goods, which contains a description of the goods and states Contents of agreement

- (a) the cash price of the goods included in the hire-purchase
- (b) the amount of any applicable delivery or installation charge, if not included in the cash price of the goods ;
- (c) any insurance charges actually paid or to be paid by the seller to an insurer on behalf of the hirer on the hirer's request ;
- (d) the registration fee, if any ;
- (e) the total cash price, being the aggregate of the amounts mentioned in paragraphs (a), (b), (c) and (d) ;
- (f) the amount or value of any down payment, rent paid or to be paid in advance of delivery or on delivery, trade-in or other allowance made to the hirer ;

- (g) the balance of the total cash price, being the difference between the total mentioned in paragraph (e) and the amount mentioned in paragraph (f);
- (h) the total cost of borrowing being the difference between the balances mentioned in paragraphs (i) and (g) expressed as one sum in dollars and cents;
- (i) the balance owing, being the aggregate of the rent to be paid by the hirer subsequent to delivery of the goods, and of all further payments, if any, not included in the rent which the hirer will have to pay in order to purchase or become the owner of the goods;
- (j) the details of the manner in which the balance owing is to be paid, as required by section 8 or 10;
- (k) the aggregate of the cost to the hirer being the total of the amounts mentioned in paragraphs (e) and (h);
- (l) the true annual rate of the cost of borrowing calculated in accordance with section 11 and the regulations, expressed as a percentage; and
- (m) the total additional charge, if any, other than court costs, to be paid in the event of default expressed as a rate percentage per annum. 1971 (1st) c. 3, s. 6.

Buyer to have
copy of agree-
ment

7. (1) As soon as possible after the writing required by section 5 or 6 or by subsection 15(3) is received by the seller or his agent, and in any event not later than the time of delivery of the goods or performance of the services, as the case may be, the seller shall give a true copy of the writing to the buyer, but

- (a) if there is more than one buyer, it shall be sufficient to give a copy to one of them; and
- (b) if the writing was signed by an agent of the buyer, the copy may be given to that agent.

Acknowledg-
ment of receiv-
ing agreement

(2) The buyer or agent to whom the copy of the writing is given shall, if so requested by the seller, acknowledge receipt thereof and in any case the writing shall not be binding on the buyer unless a copy thereof has been given as provided herein. 1971 (1st) c. 3, s. 7.

Dates of pay-
ments

8. (1) Subject to section 10, the details required by section 5 or 6 of the manner in which the balance owing is to be paid shall include the date and the amount of each payment to be made, except only that where such manner consists of, or includes, a succession of instalments of approximately equal amount payable monthly or at any other regular periods, it shall be a sufficient statement of such succession of instalments to state them in the following form:

"10 equal consecutive payments of \$10.00 each on the first day of each month commencing on the 1st day of June, 1971, and ending on the 1st day of March, 1972, totalling \$100.00."

with such changes as may be necessary to fit the circumstances of the case. 1971 (1st) c. 3, s. 8.

9. (1) Subject to section 10, if the writing required by section 5 or 6 is signed prior to the delivery of the goods or performance of the services, the seller shall deliver the goods or perform the services not later than seven days after the delivery date, which is Delivery of goods, etc.

- (a) the date for delivery or performance fixed by the writing; or
- (b) if none is so fixed, the date on which the writing is received by the seller or his agent.

(2) If the seller does not deliver the goods or perform the services within the time limited by subsection (1), the buyer is entitled to a rebate of part of the cost of borrowing calculated by applying the true annual rate of the cost of borrowing to the amount of the balance owing over the period of the seller's default. Late delivery

(3) Nothing herein contained derogates from the buyer his right, if any, in the transaction to rescind or cancel for late delivery, failure to perform or otherwise. 1971 (1st) c. 3, s. 9. Rights preserved

10. (1) Where, in any case to which either section 5 or 6 applies, the date of delivery of the goods or performance of the services is uncertain, the date or dates on which the balance owing is to be paid may be described in the writing by reference to the date on which the goods are delivered or services performed, and if that is done section 9 does not apply. 1971 (1st) c. 3, s. 10. Where section 9 not to apply

11. (1) Except as otherwise prescribed by regulation, the true annual rate of the cost of borrowing stated in a writing required by section 5 or 6 must be calculated over the period commencing Date for calculation of cost of borrowing

- (a) where section 9 applies, with the delivery date referred to therein; and
- (b) in any other case, with the date on which the delivery of the goods or performance of the services is completed. 1971 (1st) c. 3, s. 11.

Payments before
delivery of
service

12. (1) For the purposes of paragraphs 5(2)(f) and 6(2)(f), any payment which is made or to be made by the buyer prior to the delivery of goods or performance of the services is a down payment, notwithstanding that it may be made after the writing is signed. 1971 (1st) c. 3, s. 12.

Variable credit
and credit cards

13. (1) This section applies to every retail sale to or retail hire-purchase by a resident of the Yukon Territory of goods or services or goods and services made on variable credit; and, for the purposes of this section a buyer who obtains credit by use of a credit card shall, in relation to that credit, be deemed to reside at the address shown on that card, or if there is no address at the address applicable to that card.

Contents of
master agree-
ment

(2) Every extension of variable credit by a credit grantor shall be governed by a master agreement which shall be signed by the borrower before the first extension of variable credit to him, and which states

- (a) at what periods payments are to be made by the borrower,
- (b) the amount of the minimum payments that will be required from the borrower, but, if this may vary according to the amount of credit extended or outstanding, the method of calculating the minimum payments shall be set out in an intelligible manner,
- (c) the prevailing rate or rates of charges that the borrower will be required to pay periodically for the variable credit extended to him expressed as a percentage or percentages per annum of the balance of principal and accrued charges outstanding at the commencement of the period; and
- (d) if the charges payable on payments in arrears are to be calculated otherwise than in accordance with paragraph (c) hereof, the manner in which those charges are to be calculated and the rate thereof expressed as a percentage per annum on the amount in arrears.

Table of charges

(3) Subject to subsection (4), the master agreement shall also contain a table showing the amount in dollars and cents of the monthly charge produced by the applicable rate or rates on outstanding balances, using a sufficiently large number of representative amounts to give a fair representation of the dollars and cents charges applicable to various sizes of outstanding balance.

Separate
document for
charges

(4) At the option of the credit grantor, the table required by subsection (3) may, instead of being included in the master agreement, be embodied in a separate document,

which shall be given to the borrower before he signs the master agreement.

(5) The credit grantor shall give a copy of the master agreement to the borrower before the first extension of credit thereunder. Delivery of master agreement

(6) There may be more than one master agreement in force concurrently between a credit grantor and a borrower if Several master agreements

(a) each agreement relates to a different category of goods or services; or

(b) the borrower has the right to decide under which agreement any purchase shall be made.

(7) Subject to subsection (6), every extension of variable credit by a credit grantor to a borrower who has signed a master agreement shall be governed by the last master agreement signed by the borrower. Agreement to govern credit

(8) A credit grantor shall, on demand, but not more often than once a year, furnish to a borrower a photostatic copy of any master agreement signed by that borrower which is then in force. Copies of master agreement

(9) A credit grantor may, by giving written notice thereof to the borrower, Variations of master agreement

(a) increase the rate or rates of charges payable by the borrower in respect of subsequent purchases; or

(b) increase the minimum periodic payments payable by the borrower in respect of subsequent purchases;

or both, but, except as otherwise provided in the regulations, no such increase shall affect the borrower's obligations in respect of his then outstanding balance which shall continue to be governed by the then prevailing terms.

(10) A credit grantor may decrease the rate or rates of charges or the minimum periodic payments payable by a borrower, or both, either in respect of subsequent purchases only or in respect of both his then outstanding balance and subsequent purchases. Decreasing payments under master agreement

(11) Subject to subsection (13) a borrower to whom variable credit has been extended shall be liable to pay periodic charges for such credit in accordance with paragraph (2)(c) and subsections (9) and (10), but unless he defaults in his payments, no other cost of borrowing whatsoever. Liability of borrower under master agreement

(12) A credit grantor may at any time require a borrower to sign a new master agreement as a condition of extending New master agreement

fresh credit, but a refusal by the borrower to sign a new master agreement shall not affect his liability in regard to credit already extended.

Where rate charged not stated

(13) If a master agreement indicates that the borrower is to pay periodic charges for variable credit extended to him but either does not state any rate for such charges or expressed it otherwise than as a percentage per annum of the balance outstanding at the commencement of the period, the charges under that agreement shall be calculated at the legal rate of interest on the said balance.

Agreements before Ordinance

(14) Any agreement for the extension of variable credit entered into before this Ordinance comes into force continues in force notwithstanding that it does not comply with subsection (2) or subsection (3) and subsections (5), (11), and (13) do not apply thereto; but subsections (6), (7), (8), (9), (10), and (12) apply thereto. 1971 (1st) c. 3, s. 13.

Money loans

14. (1) Subject to section 3, this section applies to every loan of money made by a money lender except

- (a) a loan secured exclusively on real property;
- (b) a loan of more than eight thousand five hundred dollars;
- (c) a loan to a corporation;
- (d) a loan made by an insurance company to a policy holder pursuant to a provision of the policy; and
- (e) a loan in which the cost of borrowing does not exceed ten dollars.

Contents of agreement

(2) Every loan to which this section applies shall be evidenced by a document or memorandum in writing signed by the borrower at or before the time the loan is made which shall set out

- (a) the amount advanced or to be advanced to the borrower himself;
- (b) any insurance charges actually paid or to be paid by the money lender to an insurer on behalf of the borrower on his request;
- (c) any registration fee payable on any security taken for the loan;
- (d) any other amount, not being a part of the cost of borrowing, advanced or to be advanced to other persons for the borrower's account showing the name of each of those persons and the amount advanced or to be advanced to each;

- (e) the cost of borrowing expressed as one sum in dollars and cents;
 - (f) the total amount to be repaid by the borrower, being the aggregate of the amounts mentioned in paragraphs (a), (b), (c) (d), and (e);
 - (g) the details of the manner in which the total amount is to be repaid showing the number of payments, and the amount and date of each;
 - (h) the true annual rate of the cost of borrowing calculated in accordance with the regulations expressed as a percentage; and
 - (i) the total additional charge, if any, other than court costs, to be paid in the event of default expressed as a rate percentage per annum.
- (3) The particulars required by paragraph (2)(d) need not be set out in the loan agreement if
- (a) they are contained in a separate document signed by the borrower not later than the time at which he signs the loan agreement;
 - (b) the borrower is given a copy of that document at the time he signs it; and
 - (c) the total of the amounts shown in that document is set out in the loan agreement.
- (4) Where any loan to which this section applies is secured by a mortgage or charge on goods, the goods shall be clearly described in the document or memorandum required under subsection (2), and in the copy that is given by the credit grantor or his agent under section 20.
- (5) In this section "real property" includes leasehold interests therein and things attached to or forming part of the land on which the loan is secured. 1971 (1st) c. 3, s. 14.
- 15. (1)** Except as otherwise provided in the regulations, where a borrower rearranges with a credit grantor payment of any existing debt or debts owing to that credit grantor which arose out of a transaction or transactions to which section 5, 6 or 14, or any combination of them, applied, or to which those provisions or any of them would have applied if they, or any of them, had been in force at the time the transaction took place, by any arrangement whatever that has the effect of varying the amount the borrower has to pay or the period over which he has to pay it, the transaction shall be evidenced by a document or memorandum in writing signed by the borrower in accordance with section 14 as if the credit grantor were then advancing to the borrower the sum then

Separate documents permitted

Description of goods in document

Definition "real property"

Refinancing existing indebtedness

required to prepay the existing debt or debts without any allowance to the credit grantor under subsection 29(3) and the credit grantor shall furnish to the borrower before he signs the agreement a written computation of that sum; and where more than one existing debt is included in the rearrangement, a separate computation shall be made in respect of each of them.

Refinancing
combined with
new loan

(2) Except as otherwise provided in the regulations where a rearrangement of an existing debt or debts under subsection (1) is combined with an additional loan of money by the credit grantor to the borrower, the transaction shall be evidenced by a document or memorandum in writing signed by the borrower at or before the time the additional loan is made in accordance with section 14 as if the credit grantor were then advancing both the amount of the additional loan and the sum then required to prepay the existing indebtedness in accordance with subsection (1); but the loan agreement must show how the total is divided between these two items and the borrower must be given the computation required by subsection (1).

Refinancing
combined with
further purchase

(3) Except as otherwise provided in the regulations, where a borrower wishes to combine the payment of an existing debt or debts with payments for a new purchase from the same credit grantor of goods or services or both to which section 5 is applicable, the transaction shall be evidenced by a writing signed by the borrower prior to or at the time of delivery of the goods and services which combines the information required to be given by section 5 and by subsection (1) hereof by stating

- (a) the information required by paragraphs 5(2)(a) to 5(2)(g) in respect of the sale of the goods and services;
- (b) the sum required to prepay the existing indebtedness in accordance with subsection (1);
- (c) any registration fee which is payable only in respect of the refinancing of the existing indebtedness;
- (d) the total present debt, being the aggregate of the balance of the total cash price of the goods and services and the amounts mentioned in paragraphs (b) and (c);
- (e) the total cost of borrowing expressed as one sum in dollars and cents;
- (f) the balance owing, being the aggregate of the amounts mentioned in paragraphs (d) and (e);
- (g) the details of the manner in which the balance owing is to be paid, as required by section 8;
- (h) the total amount the borrower will be paying to acquire the goods and services and retire the existing

indebtedness, being the aggregate of any down payment, trade-in or other allowance to the borrower on the purchase of the goods and services and the balance owing mentioned in paragraph (f);

- (i) the true annual rate of the cost of borrowing calculated in accordance with section 11 and the regulations expressed as a percentage; and
- (j) the total additional charge, if any, other than court costs, to be paid in the event of default expressed as a percentage per annum; and the credit grantor shall also furnish the borrower with a written computation of the sum required to prepay the existing indebtedness as provided by subsection (1) thereof.

(4) In any transaction to which subsection (3) hereof applies, all payments made by the borrower on account of the balance owing shall be applied in payment of Application of payments

- (a) first, the registration fee mentioned in paragraph (3)(c);
- (b) secondly, the sum required to prepay the existing indebtedness;
- (c) thirdly, the cost of borrowing;
- (d) fourthly, the balance of the total cash price of the goods, and services;

and when the borrower's payments have satisfied the amounts mentioned in paragraphs (a) and (b), any security held by the credit grantor for the existing indebtedness is discharged; and, if the goods being purchased are the subject of a time sale, the whole cost of borrowing is secured on them, notwithstanding subsection 57(1).

(5) The combination as one obligation of rent on a retail hire-purchase to which section 6 applies with instalment payments on account of an existing indebtedness is prohibited. Re-financing not to be combined with hire-purchase

- (6) In any transaction to which this section applies, if Additional insurance charges
- (a) any insurance previously charged to the borrower in a transaction from which the existing indebtedness arose is to be continued in force; and
 - (b) new insurance is charged to the borrower;

the agreement shall show whether the new insurance is in addition to the existing insurance or is wholly or partly in substitution for it, and in the latter event shall also show the amount of the unearned premium on the insurance being replaced, and the insurance charges charged to the borrower shall not exceed the net amount payable after credit for such unearned premium. 1971 (1st) c. 3, s. 15.

Dates for
periodic pay-
ments

16. (1) Where the manner in which the total amount is to be repaid consists of or includes a succession of instalments of approximately equal amounts payable monthly, or at any other regular periods, it shall be a sufficient statement of such succession of instalments for the purpose of paragraph 14(2)(g) and of paragraph 15(3)(g) to state them in the form provided by section 8. 1971 (1st) c. 3, s. 16.

Loans advanced
over period

17. (1) Where any loan to which section 14 applies is to be advanced by stages over a period of more than seven days, the loan agreement shall so state and shall

- (a) name a date (hereinafter referred to as "the interest adjustment date") by which all advances are to be completed;
- (b) provide that to the interest adjustment date the only cost of borrowing payable by the borrower shall be interest at the rate specified calculated on the amount from time to time advanced, and state when such interest shall be paid;
- (c) exclude that interest from both the cost of borrowing and the total amount to be repaid by the borrower;
- (d) state clearly that that interest will be in addition to the cost of borrowing and total amount to be repaid shown in the agreement;
- (e) fix as the date of the first repayment to be made by the borrower a date subsequent to the interest adjustment date; and
- (f) state as the true annual rate of the cost of borrowing the rate calculated over the period commencing with the interest adjustment date. 1971 (1st) c. 3, s. 17.

Advancing loan

18. (1) Except as provided by section 17, the full amount of any loan to which section 14 applies shall be advanced not later than seven days after

- (a) the date fixed by the loan agreement, where the date is so fixed; or
- (b) where the date is not fixed by the loan agreement, the date on which the agreement is signed by the borrower;

and the true annual rate of the cost of borrowing shall be calculated over the period commencing with the date so fixed, or, if none is so fixed, with the date on which the agreement is signed by the borrower. 1971 (1st) c. 3, s. 18.

Rebate where
loan not
advanced

19. (1) If a credit grantor fails to advance the full amount of a loan before the interest adjustment date or within the

time limited for that purpose by section 18, as the case may be, the borrower is entitled to a rebate of part of the cost of borrowing calculated by applying the true annual rate of the cost of borrowing to the amount not so advanced over the period of the credit grantor's default. 1971 (1st) c. 3, s. 19.

20. (1) As soon as possible after a loan agreement required by section 14 or 15 is received by the credit grantor or his agent and in any event not later than the time of the first advance made by the credit grantor thereunder, the credit grantor shall give a true copy of the loan agreement to the borrower, provided that, if there is more than one borrower, it shall be sufficient to give a copy to one of them. 1971 (1st) c. 3, s. 20.

Delivery of copy of agreement

21. (1) For the purposes of paragraphs 14(2)(d) and 14(2)(e), a payment made to another person for the borrower's account is part of the cost of borrowing if it is made to discharge a liability which the borrower would not have incurred if there had been no loan made to him or deemed to be made to him under section 15 as the case may be. 1971 (1st) c. 3, s. 21.

Payments on borrower's account as cost of borrowing

22. (1) Except as may otherwise be provided by regulation, if a writing or agreement required by section 5, 6, 13, 14 or 15 stated in an intelligible manner the information required by the applicable section, or by any other provision of this Part, it is not necessary that it should set it out in any particular order, except that in a transaction to which subsection 15(3) applies, the information mentioned in paragraph 15(3)(a) shall be stated first. 1971 (1st) c. 3, s. 22.

Compliance with requirements for agreements

23. (1) A credit grantor shall forward promptly the application for any insurance which is charged to a borrower and does not form part of the cost of borrowing and shall furnish proof of the insurance to the borrower as soon as it is effected.

Proof of insurance

(2) A borrower is liable to pay to the credit grantor only the premium payable from the time the insurance becomes effective to the date of the expiry of the policy or any extension thereof or to the date on which the policy is cancelled and, where the policy of insurance is cancelled, the debtor shall receive the full amount of the unearned premium cancelled by the insurer. 1971 (1st) c. 3, s. 23.

Liability for insurance premium

Incorrect
statements in
agreements

24. (1) Except as otherwise provided in the *Interest Act (Canada)*, and subject to subsections (2) and (3), if a writing required by section 5 or 6

(a) does not contain a statement of the true annual rate of the cost of borrowing or understates it by more than the margin permitted by the regulations; or

(b) omits or states incorrectly any of the information required by paragraphs 5(a) to 5(k) or paragraphs 6(2)(a) to 6(2)(k) as the case may be, or by section 10;

the seller may recover from the buyer no more than the total cash price with simple interest thereon, or on so much thereof as from time to time remains owing, at the legal rate, and if the buyer has paid the seller more than that amount, he may recover the excess from the seller.

Inadvertent
mistakes in cost
of borrowing

(2) Where paragraph (1)(a) applies, the court may permit the seller to recover, or to keep, as the case may be, more than the total cash price and simple interest thereon at the legal rate if it is satisfied that the omission or mis-statement was due to inadvertence; but the seller may not, in any case, recover or keep a cost of borrowing which would exceed the rate stated in the writing to be true annual rate.

Inadvertent
mistakes in other
statements

(3) Where paragraph (1)(b) applies, the court may permit the seller to recover, or keep, as the case may be, the full amount which the buyer has agreed to pay if it is satisfied that the omission or mis-statement was due to inadvertence and the buyer has not thereby been misled as to the amount he had to pay, but where the result of a mis-statement is to produce in the writing inconsistencies that make it uncertain how much the buyer has to pay, the seller may not, in any event, recover from the buyer more than the lowest amount which the writing can reasonably be construed to require.

Investigation of
inadvertent
mistakes

(4) Where a seller claims that any omission or mis-statement was due to inadvertence, the court shall not adjudicate thereon until the Commissioner has been advised thereof, and if he considers it to be appropriate has made an investigation.

Appearance by
Commissioner

(5) Where subsection (4) applies, the Commissioner may attend by counsel at the hearing and adduce such evidence as he desires; and, if in the result the court is not satisfied that the omission or mis-statement was due to inadvertence, it may order the seller to pay the Commissioner's costs. 1971 (1st) c. 3, s. 24.

Understatement
of cost of
borrowing rate
on variable
credit

25. (1) Except as otherwise provided in the *Interest Act (Canada)*, if any master agreement required by section 13

understates the true annual rate of the cost of borrowing by more than the margin permitted, the borrower is not required to pay charges calculated at any greater rate than the legal rate of interest.

(2) Except as otherwise provided in the *Interest Act (Canada)*, or in section 13, a credit grantor who extends variable credit in transaction to which section 13 applies otherwise than in pursuance of either

Where no master agreement on variable credit

- (a) a master agreement which complies with section 13; or
- (b) a written agreement made prior to the commencement of this Ordinance;

may not recover from the borrower any cost of borrowing whatsoever.

(3) A credit grantor who has extended variable credit in a transaction to which section 13 applies shall not exact or attempt to exact from the borrower payment of any cost of borrowing in excess of the amount permitted by this Ordinance or by the *Interest Act (Canada)*.

Cost of borrowing on variable credit restricted

(4) If a credit grantor who has extended variable credit in a transaction to which section 13 applies receives from the borrower payment of any cost of borrowing in excess of the amount permitted by this Ordinance or by the *Interest Act (Canada)*, the borrower may recover from the credit grantor the amount of such excess. 1971 (1st) c. 3, s. 25.

Recovery of excess interest paid

26. (1) Except as otherwise provided in the *Interest Act (Canada)*, where a loan to which section 14 applies

Loans not in writing or at wrong rate

- (a) is not evidenced by a loan agreement containing the information required by paragraphs 14(2)(a) to 14(2)(h); or
- (b) is evidenced by a loan agreement which understates the true annual rate of the cost of borrowing by more than the permitted margin;

the credit grantor may recover no more than the aggregate of the amount advanced to the borrower himself and any amount properly advanced to any other person for the borrower's benefit, with interest thereon at the legal rate.

(2) Except as otherwise provided in the *Interest Act (Canada)*, where a transaction to which section 15 applies

Refinancing not properly stated

- (a) is not evidenced by an agreement containing the required information; or
- (b) is evidenced by an agreement which understates the true annual rate of the cost of borrowing by more than the permitted margin;

the transaction is voidable at the option of the borrower; and if the borrower elects to avoid it, the credit grantor may recover no more than the aggregate of

- (a) the amount properly payable under the terms of the obligation being rearranged; and
- (b) the amount of any additional loan, if subsection 15(2) is applicable, or the total cash price of the goods and services sold to the borrower, if subsection (3) thereof is applicable, with interest thereon at the legal rate.

Recovery of
excess costs of
borrowing

(3) If a credit grantor in a transaction to which section 14 or 15 applies receives from the borrower payment of any cost of borrowing in excess of the amount permitted by this Ordinance or by the *Interest Act (Canada)*, the borrower may recover from the credit grantor the amount of excess. 1971 (1st) c. 3, s. 26.

Contents of
advertisements

27. (1) No advertisement of goods for retail sale on credit or for retail hire-purchase shall state the monthly or other periodic payments required unless it also states

- (a) the total cash price of the goods;
- (b) the total to be paid by the credit buyer or hirer; and
- (c) the true annual rate of the cost of borrowing expressed as a percentage and calculated in accordance with the regulations.

Definition of
"advertisement"

(2) In subsection (1), "advertisement" includes

- (a) any price tag, ticket or notice attached to or displayed near the goods;
- (b) any advertisement in a newspaper or magazine which circulates in the Territory; and
- (c) any message broadcast by television or radio which can reasonably be expected to be received by members of the public in the Territory. 1971 (1st) c. 3, s. 27.

Offence in
advertising

28. (1) Subject to subsection (2), no person carrying on business in the Territory shall advertise or cause others to advertise his goods in a manner prohibited by section 27.

Exception

(2) Where a person also carries on business outside the Territory, subsection (1) does not apply to any advertisement of his goods which either

- (a) is contained in a newspaper or magazine circulating principally in a particular locality outside the Territory; or
- (b) states expressly that the credit terms offered do not apply in the Territory.

(3) Where any advertisement of the goods of a person carrying on business in the Territory is contained in a newspaper or magazine published outside the Territory, or is sent by mail from a point outside the Territory, or is broadcast from outside the Territory, the onus of proof shall lie on him to prove that he did not cause his goods to be so advertised. 1971 (1st) c. 3, s. 28. Onus of proof

PART II

PREPAYMENT PRIVILEGES

29. (1) This section applies to

- (a) every debt which arose out of a transaction to which section 5, 6 or 14 or subsection 15(1), 15(2) or 15(3) applies; and Application of section
- (b) to every debt owing before this Ordinance came into force and to which these provisions or any of them would have applied if they had been in force at the time the transaction took place if the credit grantor accepts full payment of the balance owing after this subsection comes into force.

(2) The borrower may at any time prepay the whole of the balance then owing on any debt to which this section applies and in so doing is entitled to a rebate equal to the unearned portion of the cost of borrowing calculated in accordance with the regulations, less the allowance permitted to the credit grantor by subsection (3). Prepayment and rebate

(3) The allowance to the credit grantor on prepayment referred to in subsection (2) shall be one-half of the unearned portion of the cost of borrowing, but in no case more than ten dollars. Credit grantor's allowance

(4) A borrower who is prepaying a debt under this section may deduct the rebate to which he is entitled from his payment and tender to the grantor the net amount required to effect the prepayment. Deducting rebate from payment

(5) A credit grantor shall furnish, on request, to any borrower who is entitled under this section to prepay a debt to him a statement showing the net amount required to effect such prepayment and how such amount is arrived at. 1971 (1st) c. 3, s. 29. Statement of prepayment

30. (1) A borrower to whom variable credit has been extended may, at the time when any periodic payment falls Prepayment of variable credit

due, pay off the whole or any part of the balance owing. 1971 (1st) c. 3, s. 30.

Surrender of security

31. (1) Where a borrower has prepaid or paid off the whole of a balance owing under section 29 or 30, the credit grantor shall surrender or discharge any security which he holds for such indebtedness without further charge to the borrower, except that the credit grantor need not register any document required to effect the surrender or discharge, but may deliver the same to the borrower who shall bear the registration fee thereon. 1971 (1st) c. 3, s. 31.

PART III

RELIEF AGAINST ACCELERATION AND FORFEITURE

Application of Part

32. (1) This Part applies to any debt owing by a borrower to a credit grantor that is payable by instalments, other than

- (a) a debt secured on real property; and
- (b) a debt which arose out of a sale of real property.

Definition "real property"

(2) In this section "real property" includes leasehold interests in real property, 1971 (1st) c. 3, s. 32.

Default charges

33. (1) No agreement creating or relating to a debt to which this Part applies shall provide for any charge to be paid upon any default in payment of an instalment unless it is expressed as an annual rate on the amount in arrears.

Restrictions on default charges

(2) If the debt arises out of a transaction to which any provision of Part I of this Ordinance applies, the annual rate of default charges shall not exceed the annual rate of the cost of borrowing.

Penalty

(3) If the agreement states the default charge otherwise than as an annual rate on the amount in arrears, or, in a case to which subsection (2) applies, states an annual rate greater than is permitted by that subsection, the credit grantor may not recover any default charge in excess of an amount equal to interest at the legal rate on instalments in arrears. 1971 (1st) c. 3, s. 33.

Acceleration on default

34. (1) Subject to the restrictions hereinafter set forth, any provision in an agreement providing that in the event of default in payment of an instalment, the full balance will or may become immediately due and owing is valid and enforceable.

(2) The restrictions to which reference is made in subsection (1) are Restrictions on acceleration

- (a) if the debt arises out of a sale of goods or of goods and services, or a hire-purchase of goods and the seller has not seized the goods or commenced an action to recover the balance of the debt, the buyer may pay the instalments in arrears with the default charges thereon as provided in section 33 and, in that event, payment of the balance shall not be accelerated by reason of any default so remedied ;
- (b) if the debt arises out of a sale of goods or of goods and services or a hire-purchase of goods, and the seller is entitled to seize the goods and has so seized them, he shall proceed in accordance with section 47 or 48 and, if the buyer redeems the goods in accordance with those sections, payment of the balance shall not be accelerated by reason of any default so remedied ;
- (c) if the debt is secured by a chattel mortgage, the mortgagor is entitled to relief from acceleration as provided in paragraph 8(1)(h) of the *Judicature Ordinance* ;
- (d) in any other case, the borrower may, at any time before an action is commenced to recover the balance of the debt, pay the instalments then in arrears with the default charges thereon as provided by section 33, and in that event payment of the balance shall not be accelerated by reason of any default so remedied ;
- (e) in any case in which an action has been commenced to recover the balance of the debt, the court may grant relief against acceleration on such terms as it sees fit ; and
- (f) in any case in which a credit grantor is claiming accelerated payment, and the borrower does not make the payments required to obtain relief under paragraphs (a), (b), (c) or (d), or is not granted relief under paragraph (e), as the case may be, the credit grantor may not recover more than the aggregate of
 - (i) the amount which the borrower would have had to pay in order to prepay the whole balance of the debt at the time of the default on which the claim for acceleration is based ;
 - (ii) interest thereon from the time of default at the annual rate of the default charges on payments in arrears provided in the agreement or, at the legal rate, and
 - (iii) any expense actually incurred by the credit grantor as a result of the default and his taxable costs of the action, if any.

Default after extension (3) In any case in which a borrower has been granted an extension of time, the time of default referred to in subparagraph (2)(f)(i) is the time when the borrower fails to comply with the terms of such extension.

Meaning of "payments in default" (4) Except where expressly so stated, references in this Ordinance to payments in default do not include any payments that have become due by virtue of any provision for the acceleration of payments.

Acceleration provisions continue in effect (5) A provision for acceleration of payments on default operates from time to time as and when default occurs; and the circumstance that a borrower has been relieved from acceleration in accordance with this section shall not be taken to have exhausted the operation of the provision in respect of subsequent defaults. 1971 (1st) c. 3, s. 34.

Other penalties void **35.** (1) Any provision in an agreement creating or relating to a debt payable by instalments to which this Part applies that imposes on the borrower, as a consequence of default in payment of an instalment, any pecuniary penalty which is not permitted by sections 33 and 34 is void. 1971 (1st) c. 3, s. 35.

Damages for breach of obligation **36.** (1) Where an agreement creating or relating to a debt imposes on the borrower any obligation in addition to the payment of the debt and the cost of borrowing, if any, and the borrower commits a breach of the obligation, the credit grantor may recover from the borrower as damages for the breach the amount of the loss he has suffered and the actual expenses he has incurred as a result of the breach, but not more.

Penalty for breach (2) Every provision contained in an agreement creating or relating to a debt that imposes on the borrower a pecuniary penalty, howsoever described for committing a breach of an obligation in addition to the payment of the debt, imposed on the borrower by the agreement, is void in so far as it would entitle the credit grantor to recover more than the amount permitted by subsection (1), but is effective to prevent the credit grantor from recovering more than the amount of the penalty so specified. 1971 (1st) c. 3, s. 36.

Relief against acceleration, seizure and forfeiture **37.** (1) Where an agreement creating or relating to a debt imposes on the borrower an obligation in addition to the payment of the debt, and provides that in the event of a breach thereof

(a) payment of the debt shall be accelerated; or

- (b) the credit grantor may seize or take possession of any goods; or
- (c) that the interest of the borrower in any goods is or may be forfeited;

the court may relieve the borrower from the effect of the provision on such terms as it thinks just. 1971 (1st) c. 3, s. 37.

38. (1) Every provision in an agreement creating or relating to a debt that gives or has the effect of giving the credit grantor the right to decide whether any given fact or circumstance exists is void.

Absolute discretion of creditor

(2) Notwithstanding subsection (1), an agreement may contain a provision that, if the credit grantor has reasonable cause to believe that the security for the debt is in jeopardy,

Powers to preserve security

- (a) payment of the debt shall be accelerated;
- (b) the credit grantor may seize or take possession of any goods; or
- (c) that the interest of the borrower in any goods is or may be forfeited;

or any or all of those provisions; and in that case it is a question of fact for the court whether the credit grantor has reasonable cause for such belief or not, but, if he has such cause at the relevant time, it is immaterial whether the security is actually in jeopardy or not.

(3) The court may relieve the borrower from the effect of a provision mentioned in subsection (2) on such terms as it thinks just. 1971 (1st) c. 3, s. 38.

Relief against powers

39. (1) The court may grant relief under sections 37 and 38 at any time, and may do so either in a proceeding commenced by the credit grantor to enforce his security or on an application by the borrower; but if the credit grantor gives the borrower written notice which

Granting relief

- (a) specifies the breach complained of, or the facts relied on as giving reasonable cause for the credit grantor's belief, as the case may be;
- (b) informs the borrower of his right to apply for relief; and
- (c) requires the borrower to apply for such relief within twenty days;

the borrower's right to apply for relief expires at the end of those twenty days. 1971 (1st) c. 3, s. 39.

Return of seized goods where default remedied

40. (1) Where a creditor grantor seizes any goods and the borrower remedies the default or otherwise obtains relief under this Part, the credit grantor shall return the goods to the borrower on payment by the borrower, in addition to any other payment required by this Part, of the costs of seizure in an amount not exceeding that permitted by the *Distress Ordinance*. 1971 (1st) c. 3, s. 40.

PART IV

TIME SALES

Content of time sale agreement

41. (1) Subject to sections 43 and 44, every time sale shall be evidenced by a time sale agreement in writing signed by the buyer or his agent prior to, or at the time of, delivery of the goods containing a description of the goods by which they may be readily and easily known and distinguished, and also containing, in type not less than ten point in size

- (a) a statement that the property in the goods is not to pass to the buyer on delivery ;
- (b) the conditions upon which the property in the goods is to pass to the buyer; and
- (c) the events upon which the seller may, before the property therein has passed to the buyer, repossess the goods.

Delivery of copy to buyer

(2) The seller shall give a copy of the agreement to the buyer, or to the agent who signed it, not later than the time of delivery of the goods, but if there is more than one buyer, it is sufficient to give a copy to one of them. 1971 (1st) c. 3, s. 41.

Compliance with other requirements

42. (1) Every time sale agreement to which section 5 or 6 or subsection 15 (3) is applicable shall also contain the information required thereby. 1971 (1st) c. 3, s. 42.

Time sale under master agreement

43. (1) Subject to section 44, if a seller extends variable credit under a master agreement which provides that all goods sold thereunder are sold on time sales, it shall not be necessary for the buyer to sign a time sale agreement for any purchase made under that master agreement if

- (a) the master agreement contains, in type not less than ten point in size, the statements and information required by paragraphs (41)(1)(a), (b) and (c); and
- (b) there is delivered to the buyer, or his agent, or to one of the buyers, if there is more than one of them, prior

to, or at the time of, delivery of the goods a writing which

- (i) contains a description of the goods by which they may be readily and easily known and distinguished.
- (ii) states the cash price of the goods, and
- (iii) indicates that the goods were sold on the terms of the master agreement. 1971 (1st) c. 3, s. 43.

44. (1) Where an article bought on a time sale is one of a series of similar articles that are individually distinguished by a serial number or similar distinguishing mark and at the time of purchase it is not known which particular article will be the one delivered to the buyer,

Serial numbers
or distinguishing
marks

- (a) if the article is sold otherwise than on variable credit, the seller may insert the serial number or distinguishing mark in the agreement after it is signed by or on behalf of the buyer, and if this is done after the copy of the agreement required by section 41 has been given to the buyer he shall give a second completed copy of the agreement to the buyer, but the serial number or distinguishing mark shall be inserted in the agreement and the second copy given to the buyer not later than twenty days after delivery of the article; and
- (b) if the article is sold on variable credit, the serial number or distinguishing mark may be omitted from the writing required by section 43 to be given to the buyer, but a copy of the writing containing the number or mark shall be given to the buyer not later than twenty days after delivery of the article. 1971 (1st) c. 3, s. 44.

45. (1) Subject to subsections (2), (3) and (4), a time sale that does not comply with section 41, 43 or 44 takes effect as an immediate sale and the property in the goods passes to the buyer on delivery and the seller has no lien on the goods, but this does not affect the buyer's obligation to pay for the goods in accordance with the terms of the agreement.

Non-compliance
with sections 41,
43 or 44

(2) Where a time sale includes more than one separate article, and the only non-compliance with section 41, 43 or 44, as the case may be, is a failure to give a proper description of one or more of the articles, the reservation of the seller's lien is effective in regard to the articles that are properly described and subsection (1) applies only to the articles that are not properly described.

Partial effect of
seller's lien

Correction of
description by
consent

(3) The buyer may at any time consent in writing to the correction of an error or omission in the description of any goods in a time sale agreement; and on receipt of such consent the seller may correct the original agreement accordingly; and for the purposes of this section the agreement shall be deemed to have been originally written as so corrected, except that no such correction shall prejudice any rights in or to the goods which may have been acquired before the date of the correction by any other person claiming through the buyer who does not consent in writing to the correction.

Correction of
description by
court

(4) The court, on being satisfied that an error or omission in the description of any goods in a time sale agreement was due to inadvertence and that the buyer accepted the goods and was not misled by the error or omission, may order the description in the original agreement to be corrected; and for the purposes of this section the agreement shall be deemed to have been originally written as so corrected; but every such order shall contain whatever provisions the circumstances of the case may require to protect any person who may have acquired in good faith through the buyer a right in or to the goods adverse to the seller's title which would be prejudiced by the correction.

(5) Where

- (a) a variation in a time sale agreement, other than in the description of the goods, is made by agreement in writing between all persons affected thereby;
- (b) goods sold on a time sale which have been repossessed by the seller are returned to the buyer pursuant to any provision of this Ordinance;
- (c) the court extends the time for payment of the balance owing on a time sale pursuant to this Ordinance; or
- (d) a buyer on a time sale who has defaulted obtains any other relief under this Ordinance;

the seller's title to the goods remains in full force and effect as reserved by the time sale agreement and his remedies in respect to future defaults by the buyer are not affected thereby. 1971 (1st) c. 3, s. 45.

Chattel mort-
gage for pur-
chase price

46. (1) Where a seller on a retail sale of goods takes back a chattel mortgage on those goods to secure payment of the whole or part of the price, the chattel mortgage shall state clearly and explicitly that it is given for this purpose.

Prohibition

(2) No seller shall take a chattel mortgage that does not comply with subsection (1). 1971 (1st) c. 3, s. 46.

47. (1) Where a seller on a time sale has repossessed the goods by reason of the buyer's default in payment, he shall retain them for twenty days after the giving of the notice required by subsection (2) during which time the buyer may redeem them on payment of Waiting period
after seizure

- (a) any payments then in default;
- (b) any default charges that have become payable thereon; and
- (c) the actual expenses of taking and keeping possessions not exceeding the amount allowed by the *Distress Ordinance*.

(2) Within forty-eight hours after repossessing any goods, the seller shall give written notice to the buyer stating Notice of seizure

- (a) that the goods have been repossessed;
- (b) the date on which they were repossessed;
- (c) the amount required to redeem them, showing how this amount is made up;
- (d) the date on or before which the goods may be redeemed; and
- (e) the place where the goods are, or are to be kept.

(3) Notwithstanding subsection (1), the seller may resell the goods during the twenty days with the written consent of the buyer given not less than twenty-four hours after the goods were repossessed. 1971 (1st) c. 3, s. 47. Resale with
consent of buyer

48. (1) Where a seller on a time sale has repossessed the goods

- (a) by reason of a breach by the buyer of the time sale agreement other than default in payment; or
- (b) pursuant to a provision in the agreement entitling him to repossess the goods if he has reasonable cause to believe that his security thereon is in jeopardy;

the buyer may, subject to the provisions of this section,

- (a) redeem the goods by remedying the breach or taking the requisite action to ensure the safety of the seller's security thereon; or
- (b) apply to the court for relief under sections 37 and 38.

(2) Within forty-eight hours after repossessing the goods, the seller shall give to the buyer a written notice that Notice of seizure

- (a) contains the statements and information required under paragraphs 39(a), (b) and (c); and
- (b) specifies the action that the seller requires the buyer to take to remedy the breach, if it is capable of remedy,

or to ensure the safety of the seller's security on the goods, as the case may be.

Right to redeem (3) Within twenty days after the giving of the notice required by subsection (2), the buyer may

- (a) redeem the goods by taking the action required by the seller in his notice and paying the seller's actual expenses of taking and keeping possession, not exceeding the amount allowed by the *Distress Ordinance*; or
- (b) apply to the court for relief.

Court may relieve

(4) If the buyer applies to the court for relief pursuant to subsection (3), the court may, if it sees fit, relieve the buyer against the consequences of the repossession by ordering the seller to return the goods to the buyer either unconditionally or subject to the fulfillment by the buyer of such conditions as the court may see fit to impose.

Costs

(5) Where the court has ordered the seller to return the goods to the buyer unconditionally, and the court is of the opinion that the buyer's breach of the agreement did not prejudice the seller, or that the seller did not have reasonable cause to believe that his security on the goods was in jeopardy, as the case may be, the court may order the seller to pay the buyer's costs of the application. 1971 (1st) c. 3, s. 48.

Reckoning time for notice

49. (1) In reckoning the periods of forty-eight hours prescribed by sections 47 and 48, Saturdays, Sundays and holidays shall be excluded. 1971 (1st) c. 3, s. 49.

Leave required for seizure

50. (1) Where a seller on a time sale would be, but for this section, entitled to repossess any goods, and the balance owing by the buyer on those goods at that time is less than twenty-five percent of the cash price of the goods at the time of the sale thereof, the seller may not repossess the goods without either the leave of the court or the written consent of the buyer given at the time of repossession.

Notice of application for leave

(2) The seller shall give notice to the buyer of his application for leave required under subsection (1), unless

- (a) the buyer cannot be found or is evading service; or
- (b) there is reasonable cause to believe that the buyer might hide the goods or otherwise attempt to evade repossession thereof if he had notice of the application; or
- (c) the court for any other reason sees fit to dispense with notice;

in which event the court may give leave to repossess on the *ex parte* application of the seller.

(3) Where leave to repossess is given *ex parte*, the order giving the leave may be set aside upon the application of the buyer initiated not later than Setting aside *ex parte* order

(a) twenty days after the buyer has notice of the making of the order; or

(b) ninety days after the goods are repossessed;

whichever is the earlier, and the seller shall at, or as soon as possible after, the time of repossession give to the buyer a copy of the order and a notice in a form approved by the judge who made the order of the buyer's rights under this subsection.

(4) In deciding whether to grant leave to repossess, or to set aside an order made *ex parte*, the court shall consider all relevant circumstances, including Consideration of court

(a) the present value of the goods;

(b) the amount already paid by the buyer;

(c) the balance owing by the buyer;

(d) the reasons for the buyer's default; and

(e) the present and likely future financial circumstances of the buyer and of the seller;

and may permit the buyer to keep the goods, or if they have been repossessed pursuant to an order made *ex parte*, to redeem them, on such terms as it sees fit and may extend the time for payment by the buyer of the balance owing, but if it grants an extension, the court shall require the buyer to pay such additional amount as may be necessary to compensate the seller for the extension.

(5) Where any goods are repossessed pursuant to this section, sections 47 and 48 do not apply to such repossession. 1971 (1st) c. 3, s. 50. Sections 47 and 48 not to apply

51. (1) A notice required by section 47 or 48 and the copy of the order and notice required by section 50 may be given to the buyer Delivery of notice, etc.

(a) by delivering it personally to the buyer or to his spouse;

(b) if the goods are in a dwelling at the time of repossession, by delivering it to any adult person who is present at the time of repossession and appears to reside in the dwelling; or

(c) by mailing it by registered mail addressed to the buyer at this last known address, in which case it shall be

deemed to be given on seven days after the date of mailing.

Where notice late

(2) If a seller fails to give the notice required by section 47 or 48 within the time required, the repossession of goods is not invalidated, but the time allowed to the buyer to redeem the goods or to apply to the court is extended until the expiration of twenty days from the date on which the requisite notice is given.

Extension of time for redemption

(3) The court may extend the time allowed by sections 47 and 48 to a buyer to redeem the goods or apply for relief, and the time allowed by section 50 to a buyer to apply to set aside an *ex parte* order, but the court shall not grant the extension unless it is satisfied that the seller will not be prejudiced thereby. 1971 (1st) c. 3, s. 51.

Protection removed

52. (1) If a buyer has persistently defaulted on his obligations under the time sale agreement or master agreement in question, or has deliberately evaded repossession of the goods, the court, on the application of the seller, may deprive the buyer in whole or part of the protection of sections 34, 47, 48 and 50.

Order made when buyer absent

(2) If the buyer does not appear on the hearing of an application under subsection (1), an order made on the application is not effective until a copy of the order has been served on the buyer in a manner approved by the court.

Substitutional services

(3) Nothing in subsection (2) diminishes the court's power to order substitutional service. 1971 (1st) c. 3, s. 52.

Right of buyer to move or charge goods

53. (1) Subject to subsection (2), every provision in a time sale agreement or in a master agreement that prohibits, restricts or has the effect of prohibiting or restricting the buyer from

- (a) removing the goods to any place within the Territory ;
 - or
 - (b) charging his interest in the goods,
- is void.

Restriction on moving and charging goods

(2) A time sale agreement or a master agreement may provide that the buyer may not

- (a) remove the goods from any particular place or area ; or
- (b) charge his interest in the goods ;

unless he gives to the seller by registered mail addressed to the seller at the address specified in the agreement at least ten days before so doing, written notice of his intention to do

so, specifying the place to which he intends to remove the goods, or the person to whom he intends to charge them, as the case may be.

(3) On receipt of any notice given pursuant to subsection (2), the seller, if he believes he will be prejudiced by the intended action specified therein, may apply to the court, and the court may make whatever order seems just to protect the interests of the seller and of the buyer. 1971 (1st) c. 3, s. 53.

Order to protect
seller's interest

54. (1) Subject to subsection (2), if a seller under a time sale repossesses the goods comprised in the time sale, or any portion thereof, his right to recover any balance, whether of the price or of the cost of borrowing or both, owing on the goods so comprised is thereafter limited to his lien on the goods and his right to repossession and sale thereof, and no action is thereafter maintainable by the seller to recover the balance or any part thereof.

No right to sue
after seizure

(2) If the seller repossesses the goods and the buyer subsequently redeems them or they are returned to him pursuant to an order of the court or as the result of the setting aside of an *ex parte* order under section 50, the seller is, for the purposes of subsection (1), restored to his former position and in the event of any subsequent default by the buyer may proceed as if the goods had not been previously repossessed.

Restoration of
seller's rights

(3) Subject to subsection (4), if a seller on a time sale obtains judgment in any action for the whole or any part of the balance, whether of the price or of the cost of borrowing or both, owing on any goods comprised in the time sale, his lien on the goods comprised in that sale is extinguished on the date of the judgment and the property in the goods thereupon passes to the buyer.

Judgment
extinguishes lien
on goods

(4) If an action brought by the seller was for the full amount then owing by virtue of an acceleration provision, and the court relieves the buyer or hirer from the acceleration, it may, as one of the conditions of granting the relief, exempt the seller either wholly or partially from the operation of subsection (3).

Exemption from
subsection (3)

(5) Where a seller has obtained a judgment for the whole of the balance, and the goods comprised in the sale, or any of them, are seized under an execution issued pursuant to that judgment, the seller's right to recover under the judgment, in so far as it is based on that balance, is limited to the amount realised from the sale of goods so seized, and on the judgment, to the extent that it is based on that balance and taxed

Execution of
collateral under
judgment

costs, shall be deemed to be fully paid and satisfied; but where the amount realised from the sale of the goods exceeds the amount of the judgment and the costs of execution, the excess shall be paid to the buyer, or to subsequent execution creditors, as the case may be.

Judgment for part of balance

(6) Where a seller has obtained judgment for only a part of the balance, and the goods comprised in the sale, or any of them, are seized under an execution issued pursuant to that judgment, the seizure operates not only to satisfy the judgment as provided by subsection (5), but also to extinguish the seller's right to maintain any action for the remainder of the balance; but in that case, if the amount realised from the sale of the goods exceeds the amount of the judgment and the costs of execution, the excess shall be paid into court, and the court may order it to be paid out in such manner as may be just.

Exemptions

(7) Where only one of the goods comprised in a time sale agreement are repossessed by the seller or are seized under the execution, and the reason why the others are not repossessed or seized is that the seller or the sheriff or bailiff, as the case may be, is unable to find them, the court may exempt the seller either wholly or partially from the operation of subsection (1) or of subsections (5) and (6), as the case may be.

Where collateral damaged

(8) Where any of the goods have been destroyed or damaged by the deliberate act or wilful neglect of the buyer, the seller may, notwithstanding subsections (1), (5) and (6) recover, from the buyer, the lesser of

- (a) the balance owing on the agreement or judgment, as the case may be; or
- (b) the value of the goods destroyed, or of the damage done. 1971 (1st) c. 3, s. 54.

Removal or replacement of collateral

55. (1) Where a buyer has removed from any article sold on a time sale an accessory or component that was included in the sale, and has not replaced it by an other of a like kind and value, or has replaced it by one that is itself subject to a lien or charge held by another person, and the article has been repossessed by the seller or seized under an execution issued at the suit of the seller, the seller may, notwithstanding section 54, maintain an action to recover the least of

- (a) the value of the accessory or component removed, allowing for depreciation;
- (b) the amount owing on the lien or charge on the replacement held by another person; or

- (c) the amount by which the sum realised by the sale of the goods falls short of the balance owing thereon, or of the amount of the judgment and costs of execution, as the case may be. 1971 (1st) c. 3, s. 55.

56. (1) Where a seller has lawfully repossessed goods sold on a time sale, and the buyer has not redeemed them within the time allowed for that purpose, the seller may resell them. Resale of seized collateral

(2) A seller who resells goods must act in good faith, but so long as he does so, he may sell them at whatever price and on whatever terms he sees fit.

(3) If the amount realised on the resale of the goods exceeds the balance owing on the goods and the expenses of taking and keeping possession and of resale, the excess shall be paid by the seller to the buyer. Payment of excess to buyer

(4) If the seller has the goods repaired before reselling them, the cost thereof is part of the expenses of sale. Cost of repair

(5) If the seller resells the goods by retail in the ordinary course of his business, he may charge, as an allowance for the overhead expenses of resale, twenty percent of the proceeds of sale. Charge of overhead

(6) If the seller is unable to resell the goods at a price sufficient to satisfy the balance owing on them and the expenses of taking and keeping possession and of resale, the seller may keep the goods and use them as he sees fit. 1971 (1st) c. 3, s. 56. Retention in lieu of resale

57. (1) No part of the price of any goods comprised in a time sale which is not made on variable credit, or of the cost of borrowing thereof, may be secured on any goods not comprised in that time sale; and any provision or arrangement which purports to do so is void. Additional collateral on time sale

(2) Every provision in a master agreement relating to variable credit under which the seller may Rights in excess collateral under variable credit

(a) acquire title to, possession of, or any rights in, any goods of the buyer, other than goods bought or hired by him under that master agreement; or

(b) retain any title to, a right to repossess, or any other rights in, any article bought or hired by the buyer under that master agreement after such article has been paid for in full;

is void.

Demand pay-
ments

(3) Except with the prior consent of the Commissioner or his authorized officer, no time sale agreement shall provide that the balance owing, or any part thereof, is payable on demand, and any time sale agreement that contravenes this subsection takes effect as an immediate sale and the property in the goods passes to the buyer on delivery and the seller has no lien on the goods; but this does not affect the buyer's obligation to pay for the goods in accordance with the terms of the agreement. 1971 (1st) c. 3, s. 57.

PART V

CHATTEL MORTGAGES

Leave to
repossess

58. (1) Where a mortgagee of goods would be, but for this section, entitled to seize the mortgaged goods and the balance owing by the mortgagor on the mortgage is less than twenty-five percent of the total monetary liability of the mortgagor originally secured thereby, the mortgagee may not repossess the goods without the leave of the court.

Notice of
application for
leave

(2) A mortgagee of goods shall give notice to the mortgagor of his application for leave under subsection (1) unless

- (a) the mortgagor cannot be found, or is evading service; or
- (b) there is reasonable cause to believe that the mortgagor might hide the goods or otherwise attempt to evade seizure thereof if he had notice of the application; or
- (c) the court for any other reason sees fit to dispense with the notice;

in which event the court may give leave to seize on the *ex parte* application of the mortgagee.

Setting aside
order for leave to
seize

(3) Where leave to seize is given *ex parte* under subsection (2), the order giving the leave may be set aside upon the application of the mortgagor initiated not later than

- (a) twenty days after the mortgagor has notice of the making of the order; or
- (b) ninety days after the goods are seized;

whichever is the earlier, and the mortgagee shall at, or as soon as possible after, the time of seizure give to the mortgagor a copy of the order and a notice in a form approved by the judge who made the order of the mortgagor's rights under this subsection.

(4) In deciding whether to grant leave to seize, or to set aside an order made *ex parte*, the court shall consider all relevant circumstances, including

- (a) the present value of the goods;
- (b) the amount already paid by the mortgagor;
- (c) the balance owing by the mortgagor;
- (d) the reasons for the mortgagor's default; and
- (e) the present and likely future financial circumstances of the mortgagor and of the mortgagee.

(5) If the court grants leave to seize, it may order the mortgagee to offer the goods for sale in such manner and on such terms as it sees fit.

Conditions of
leave to seize

(6) If the court refuses leave to seize, or sets aside an order giving leave made *ex parte*, the court may extend the time for payment by the mortgagor of the balance owing, but in granting the extension, the court shall require the mortgagor to pay such additional amount as may be necessary to compensate the mortgagee for the extension.

Extension of
time to pay

(7) The copy of the order and notice by subsection (3) may be given to the mortgagor in the same manner as is provided by section 51 for giving a notice to a buyer.

Delivery of
notice, etc.

(8) The court may extend the time allowed by subsection (3) to a mortgagor to apply to set aside an *ex parte* order, but an extension shall not be granted unless the court is satisfied that the mortgage will not be prejudiced thereby.

Extension of
time to set aside
order

(9) The rights of a mortgagor under this section are in addition to any he has under sections 37, 38 and 39.

Additional
rights of mortga-
gor

(10) If a chattel mortgage is subject to the provisions of section 50, the provisions of that section prevail over any conflicting provisions of this section.

Conflict with
section 49

(11) Where

- (a) a variation in a chattel mortgage, other than in the description of the goods, is made by agreement in writing between all persons affected thereby and is registered if and as required by the *Bills of Sale Ordinance*;
- (b) goods subject to a chattel mortgage which have been seized by the mortgagee are returned to the mortgagor pursuant to any provision of this Ordinance;
- (c) the court extends the time for payment of the balance owing on a chattel mortgage pursuant to this Ordinance; or
- (d) a mortgagor of chattels who has defaulted obtains any other relief under this Ordinance;

Mortgagee not
prejudiced by
variations

the mortgagee's security on the goods remains in full force and effect as created by the chattel mortgage and his remedies in respect of future defaults by the mortgagor are not affected thereby. 1971 (1st) c. 3, s. 58.

PART VI

STATUTORY WARRANTIES ON RETAIL SALES

Warranties on
sale

59. (1) Notwithstanding any agreement to the contrary, the following conditions or warranties on the part of the seller are implied in every retail sale of goods and in every retail hire-purchase of goods:

- (a) In the case of an immediate sale, a condition that he has the right to sell the goods, or, in the case of a time sale, a condition that he has the right to agree to sell or to let on hire the goods, and will have the right to sell them at the time when the property is to pass to the buyer.
- (b) In the case of an immediate sale, a warranty that the buyer shall have and enjoy quiet possession of the goods, or, in the case of a time sale, a warranty that the buyer, so long as he fulfils his obligations under the time sale agreement, shall have and enjoy possession of the goods.
- (c) A warranty that the goods are free from any charge or encumbrance in favour of any third party except only for any that the buyer has specifically agreed in writing to accept.
- (d) A condition that the goods are new and unused unless otherwise described, but in the case of a motor vehicle a description showing that it is more than one year old is sufficient to describe it as used.
- (e) A condition that the goods are of merchantable quality, except for such defects as are described.
- (f) A condition that the goods correspond with the description under which they are sold.
- (g) If the goods are sold by sample, a condition that the bulk shall correspond with the sample and that the goods are free from any defect that renders them unmerchantable, and that would not be apparent on reasonable examination of the sample, and a condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample.
- (h) Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required, so as to show that the buyer

relies on the seller's skill or judgment, and the goods are of a description which it is in the course of the seller's business to supply, whether he is the manufacturer or not, a condition that the goods are reasonably fit for the purpose, but in the case of a contract for the sale of a specified article under its patent or other trade name, there is no implied condition as to its fitness for any particular purpose.

(2) For the purposes of paragraph (1)(e), it is not necessary to specify every defect separately, if the general condition or quality of the goods is stated with reasonable accuracy.

Statement of conditions

(3) Any statement

(a) that the goods are not new and unused;

(b) of the age of a motor vehicle;

(c) of defects in the goods; or

(d) of the general condition or quality of the goods;

Statements relating to goods on time sales

shall be a part of the description of the goods for the purposes of sections 5, 6, 41 and 43, and of subsection 15(3), and where one or more of them applies, none of those statements has any effect unless it is included in the required description of the goods in the agreement or writing but the statement shall be deemed to be included in the agreement or writing if it is contained in a document that

(a) is clearly identified as an appendix or schedule to the agreement or writing;

(b) is signed by the buyer and the seller;

(c) is attached to and forms part of the agreement;

(d) is delivered to the buyer with a copy of the agreement before delivery of the goods.

(4) Where section 5, 6, 41 or 43, or subsection 15(3) does not apply, a statement of a kind referred to in subsection (3) has no effect unless it is made in writing and

Statements relating to goods in cash sales

(a) is contained in a notice that is readily visible to the buyer at or before the time of the sale and is so displayed as to make it clear that it refers to the goods; or

(b) is contained in a document that is delivered to the buyer before he accepts the goods.

(5) If the goods are described as used in the manner required by this section, there shall be taken into account in deciding whether they are of merchantable quality

Merchantable quality

(a) the fact that they are used; and

(b) the age of the goods as specified in their description, or if no age is specified, the age of the goods as understood by the buyer at the time of sale.

Condition as to services

(6) Unless otherwise expressly agreed in writing signed by the buyer, there shall be implied in every retail sale of services a condition on the part of the seller that the services sold shall be performed in a skillful and workmanlike manner.

Effect on other conditions

(7) Nothing in this section excludes or affects any other condition or warranty relating to the goods or services, whether expressed or implied, as between the buyer and the seller or any person claiming through the seller who would, apart from this Ordinance, be held to be bound thereby. 1971 (1st) c. 3, s. 59.

PART VII

DIRECT SELLERS

Application of Part

60. (1) Subject to section 61, this Part applies to all retail sales or retail hire-purchase of goods or services or both entered into by the buyer elsewhere than in the vendor's usual place of business and which result from any offer, solicitation, proposal or approach made by or on behalf of the vendor

- (a) without any prior request by the buyer; or
- (b) in response to a request made by the buyer if the request was itself solicited by or on behalf of the vendor. 1971 (1st) c. 3, s. 60.

Where Part not to apply

61. (1) This Part does not apply to
- (a) sales at a price of less than ten dollars;
 - (b) sales or hire-purchase of vehicles or trailers within the meaning of the *Motor Vehicles Ordinance*;
 - (c) sales of water, propane gas or petroleum products;
 - (d) sales of lumber or coal where the vendor has a place of business in which the sale takes place;
 - (e) sales of feed grain, feed supplement, fertilizer, or weed spray where the vendor has a place of business where the sale takes place;
 - (f) sales of farm produce in the Territory by a farmer from his own farm;
 - (g) sales of services relating to
 - (i) the raising and care of livestock,
 - (ii) the planting, raising or harvesting of crops, or

- (iii) any service of a domestic nature, including gardening;
 - (h) any sale in which the price is expressly solicited as a contribution to a charitable, philanthropic or similar cause and not as being a fair price for the goods or services offered;
 - (i) sales of goods or services by a merchant having a recognized retail store in the Territory and selling goods or services of a sort or class ordinarily sold at that store, or by a *bona fide* servant or employee of the merchant.
- (2) For the purposes of paragraph (1)(i)
- (a) "recognized retail store" does not include a dwelling, mail order office, display room, office, repair or service shop, warehouse, studio or any other place of a like nature notwithstanding that the owner or occupant thereof is or may be assessed for business tax purposes in respect of such place; and
 - (b) "merchant" does not include a person who has a recognized retail store if more than fifty percent of the goods or services sold by him in the Territory are within section 60. 1971 (1st) c. 3, s. 61.

Definitions for paragraph (i) to subsection (1)

62. (1) All retail sales or retail hire-purchase to which this Part applies which are not in writing may be cancelled by notice in writing within seven days after the buyer has entered into the contract by sending a notice by registered mail to the vendor or personal delivery thereof to the vendor at his place of business and the notice of cancellation is good and effective, if, however expressed, it indicates the intention of the buyer to withdraw from the transaction to which it relates. 1971 (1st) c. 3, s. 62.

Cancellation within seven days

63. (1) Every agreement made in writing to which this Part applies or, if an agreement to which this Part applies is not in writing, every receipt for any payment on account of the purchase price other than an agreement to which this Part applies shall have printed or typed at the top of the first page in type not less than ten point in size the following words:

Statement required in agreement

"You can cancel this agreement by notice in writing within seven days after you signed it. If you do not cancel this agreement within the seven days you may not be able to cancel it afterwards. You can send your notice by registered mail to (name and address of vendor shall be inserted here) or you may deliver it

there yourself. You must mail it or deliver it before the end of the seven days. If you cancel it, any moneys you paid, and any goods you traded in, will be returned to you."

Terms of agreement in addition to other rights

(2) The words required by subsection (1) to be inserted in an agreement shall be a term of every agreement in which they are contained, but the words do not exclude any right of cancellation, repudiation or rescission which a buyer has apart from this Part.

Cancellation where statement omitted

(3) Subject to subsection (5), if any agreement made in writing to which this Part applies or any receipt for any payment on account of the purchase price under an agreement to which this Part applies does not contain the words required by this section, the buyer may cancel the agreement by written notice to the vendor at any time within thirty days after the first goods are delivered or services performed thereunder.

Rectifying omission of statement

(4) Where an agreement made in writing to which this Part applies does not contain the words required under this section, the vendor may at any time thereafter deliver to the buyer personally, or to each of the buyers personally if there are more than one, a notice which clearly and explicitly

- (a) refers to the agreement concerned;
- (b) informs the buyer that he may within seven days thereafter cancel the agreement by notice in writing to the vendor delivered or sent by registered mail to the address stated in the notice; and
- (c) informs the buyer that upon cancellation any money he paid or goods he traded in will be refunded.

Notice as part of agreement

(5) If a vendor delivers in accordance with subsection (4), a notice containing the information required thereby, the notice thereupon becomes a term of the agreement and subsection (3) ceases to apply.

Refusal of notice

(6) If a buyer refuses to accept delivery of a notice under subsection (4), the refusal is in itself an effective cancellation of the agreement.

Delivery of agreement

(7) A duplicate copy of every agreement made in writing to which this Part applies shall be delivered to the buyer at the time of the signing thereof. 1971 (1st) c. 3, s. 3.

Cancellation for other reasons

64. (1) Notwithstanding the provisions of sections 62 and 63, a retail sale or retail hire-purchase to which this Part applies may be cancelled where

- (a) the vendor or direct seller was not licensed pursuant to the *Business Licence Ordinance* or the *Municipal Ordinance* as the case may require, at the time that the buyer into the contract; or
- (b) the goods or services to be supplied under the contract are not supplied to the buyer within one hundred and twenty days after the date on which the buyer entered into the contract;

by written notice served on the vendor by the buyer within six months after the day on which the purchase was made or the contract was signed.

(2) Where it is shown to the court that it is inequitable that paragraph (1)(b) should apply, the court may make such order as it deems just and expedient. 1971 (1st) c. 3, s. 64. Relief against cancellation

65. (1) Upon the cancellation of any agreement, whether oral or in writing, under this Part Effect of cancellation

- (a) subject to subsection 66(2), any and every liability or obligation of the buyer under the agreement is extinguished;
- (b) the vendor shall repay to the buyer any and every sum that has already been paid by the buyer or by any one on his behalf for or on the account of the purchase price, rent, or cost of borrowing or otherwise pursuant to the agreement, whether payment has been made to the vendor or any other person; and
- (c) the vendor shall return to the buyer any goods taken as a trade-in in as good condition as they were in when taken, or if he is unable to do that, shall pay the buyer the greater of
 - (i) the market value of the goods when taken, or
 - (ii) the price or value set on the goods in the agreement.

1971 (1st) c. 3, s. 65.

66. (1) The right of a buyer to cancel under this Part is not affected by Rights of cancellation

- (a) the delivery of the goods to him;
 - (b) the use of the goods by him;
 - (c) the partial consumption of the goods by him;
 - (d) the accidental destruction of or damage to the goods; or
 - (e) the partial performance by the vendor of any services;
- but the right of a buyer or hirer to cancel under this Part is extinguished by

- (a) deliberate destruction of or damage to the goods by the buyer or any member of his household; or
- (b) the actual consumption by the buyer of all goods comprised in the agreement and the complete performance by the vendor of all services comprised therein.

Where goods not intact

(2) Where goods have been used, or partially consumed or accidentally destroyed or damaged by a buyer, or some services have been performed by the vendor

- (a) the vendor may recover from the buyer reasonable compensation therefor;
- (b) the vendor's right to recover compensation does not arise until the vendor has repaid, set off in favour of the buyer or returned to the buyer all moneys and goods to which he is entitled; and
- (c) the vendor may not maintain any action for compensation until the right thereto has arisen;

and a vendor shall not, under this subsection, recover payment from the buyer more quickly than he would have been entitled to under the agreement, and any judgment in favour of the vendor under this subsection may, therefore, be made payable by instalments.

Buyer's lien on cancellation

(3) The buyer has a lien on all goods delivered to him for all sums payable to him by the vendor, but shall return those goods to the vendor as soon as that lien has been satisfied. 1971 (1st) c. 3, s. 66.

PART VIII

ASSIGNEES AND GUARANTORS

Assignment of rights of borrower

67. (1) The rights conferred by this Ordinance on a borrower pass to and may be exercised by any person claiming through or under him without any express assignment thereof; but no such person has any right to receive from a credit grantor any notice required by this Ordinance unless the credit grantor has been made aware of the transfer to him of the borrower's rights before the time when that notice has to be given.

Reservation of rights

(2) Notwithstanding subsection (1), a buyer, when selling or transferring to another person any goods that he has acquired on a credit sale or hire-purchase, may reserve, either expressly or by necessary implication, any rights he has against the seller under section 59.

(3) Where the context so admits, in this Ordinance, "borrower" and "buyer" include any person to whom their rights pass under this section.

Assignees included in "borrower" and "buyer"

(4) Every provision of this Ordinance that restricts or reduces the amount payable by a borrower or gives him a right to set-off, likewise restricts or reduces the amount payable by and gives a similar right of set-off to any endorser, surety or guarantor for him; but this does not affect any liability to an assignee of a credit grantor on the part of

Rights of guarantors, etc.

- (a) the credit grantor himself;
- (b) where the credit grantor is a seller, any manufacturer, wholesaler or distributor of the goods; or
- (c) any person who has guaranteed the performance by the credit grantor of his obligations generally.

(5) Where goods that were acquired on a time sale or are subject to a chattel mortgage are repossessed or seized, and an assignee of the buyer or mortgagor applies to the court for relief, the court, as a condition of granting relief, may require the assignee to undertake to be personally liable for payment of the balance owing to the vendor or mortgagee. 1971 (1st) c. 3, s. 67.

Assignee's obligations fixed by court

68. (1) Except as otherwise provided in this Ordinance, the assignee of any rights of a credit grantor in any transaction to which this Ordinance applies has no greater rights than and is subject to the same obligations, liabilities and duties as the assignor, and the provisions of this Ordinance apply equally to such assignee.

Assignee of credit grantor

(2) Notwithstanding subsection (1), no borrower may recover from, or be entitled to set-off against, an assignee of the credit grantor an amount greater than the balance owing on the contract at the time of the assignment, and, if there have been two or more assignments, no borrower can recover from an assignee who no longer holds the benefit of the contract, an amount that exceeds the payments made by the borrower to that assignee.

Rights of borrowers against assignee

(3) Except as otherwise provided in this Ordinance, all restrictions imposed by this Ordinance on

Restrictions apply to assignees

- (a) the right of a credit grantor to claim immediate, payment of the debt; and
- (b) the right of a seller or mortgagee to repossess or seize goods;

apply equally to any assignee of the credit grantor, seller or mortgagee and, in the restrictions, "credit grantor", "seller"

and "mortgagee" include an assignee of a credit grantor, seller and mortgagee respectively.

Effect of
cancellation

(4) The cancellation of an agreement by any buyer under Part VII is effective against any assignee of the seller.

Recovery under
promissory note

(5) If, where subsection 24(1) or subsection 26(1) or 26(2) applies, the payments to be made by the borrower are secured by a promissory note that is negotiated to an assignee of the credit grantor, and the assignee sues in the Territory on that note, the borrower or other person sued on the note may recover back from the assignee as a simple contract debt the difference, if any, between

- (a) the amount recovered by the assignee on the note; and
- (b) the amount that the assignee could have recovered if the payments had not been secured by the note.

Set-off for
breach of
condition

(6) Subject to section 69, a breach of any of the conditions or warranties implied by section 59 may be set-off by the buyer against any claim to the goods or to payment of the price and cost of borrowing or rent or any part thereof or of any promissory note given therefor made by any assignees of the seller, or by any holder of the promissory note, whether or not the note discloses the purpose for which it was given, or by any person claiming the goods by a title paramount to that of the seller with whose consent, express or implied, the seller has sold or let on hire the goods; but the amount that may be set-off against an assignee or holder of a note under this subsection shall not exceed the amount limited by subsection (2), and the amount that may be set-off against any person claiming the goods by paramount title shall not exceed the lesser of

- (a) the cash price of the goods; or
- (b) the balance owing as described under section 5 or 6 as the case may be.

Documents to
follow assign-
ment

(7) Where a creditor grantor assigns a promissory note taken in any transaction to which section 5, 6, 14, 15 or 41 applies, he shall deliver to the assignee with the promissory note a copy of the document required by that section and the assignee who re-assigns the note shall deliver to his assignee a copy of the document. 1971 (1st) c. 3, s. 68.

Assignee of
chattel mortgage

69. (1) Where a chattel mortgage to which subsection 46(1) applies does not indicate that it was given to secure payment of the price of the goods or goods and services, any assignee for value of that mortgage who took an assignment without notice that the mortgage was given for that purpose is not

affected by any liabilities or restrictions imposed on the seller by Part IV or by section 59.

(2) The onus lies on the assignee to prove that he took the assignment for value and without notice of the purpose for which the chattel mortgage was given. 1971 (1st) c. 3, s. 69. Onus of assignee

70. (1) Where a buyer on a retail of goods finances his purchase by a chattel mortgage on the goods given to some person other than the seller, the transaction is nevertheless a time sale for the purposes of sections 47 to 57 and a retail sale for the purposes of section 59, and the mortgagee is deemed to be an assignee of the seller, if the financing was arranged by the seller, but not otherwise. Where seller not mortgagee

(2) Any mortgagee who takes a mortgage to which subsection (1) applies shall, on any assignment of the mortgage, disclose that circumstance in writing to the assignee, and any assignee of the mortgagee who is aware of the fact shall likewise disclose it to any person to whom he assigns the mortgage. Disclosure to assignee

(3) No person shall assign a mortgage without making a disclosure required by subsection (2). Disclosure required

(4) Any assignee for value of a mortgage to which subsection (1) applies who took an assignment without notice of that circumstance is not affected by any liabilities or restrictions imposed on the seller by Part IV or by section 59. Relief of assignee

(5) The onus lies on the assignee to prove that he took the assignment for value and without notice that subsection (1) applied to it. Onus of assignee

(6) Subsection (1) does not apply to a chattel mortgage on any cottage, barn, shed or other building if the money is advanced by the mortgagee to the seller on written instructions from the buyer, given not less than seven days after the signing of the mortgage, that states Exception

(a) that the building is completed to his satisfaction to the extent specified in the instructions and that the mortgagee may advance a stated sum to the seller; or

(b) that the building is fully or substantially completed to his satisfaction and that the mortgagee may advance the balance of the loan to the seller. 1971 (1st) c. 3, s. 70.

71. (1) No person, whether on his own behalf or on behalf of another directly, or through others, shall Collection practices

- (a) collect from a debtor a greater amount than the sum of the amount actually owing by the debtor to the credit grantor and the amount of fees allowed by any statute or regulations made thereunder;
- (b) notwithstanding any agreement to the contrary between the credit grantor and a debtor, collect or attempt to collect from the debtor any fee or commission payable by the credit grantor to a collection agent under any agreement or understanding between the credit grantor and the collection agent;
- (c) send any telegram or make any telephone call to a debtor for the purpose of demanding payment or negotiating payment of a debt if the charges for the telegram or telephone call are payable by the addressee of the telegram or the person to whom the telephone call is made;
- (d) verbally or in writing, collect or attempt to collect money or effect or attempt to effect seizure of goods by stating an intention or threat to proceed with any action for which he does not have lawful authority;
- (e) use, without lawful authority, any summons, notice, demand or other document expressed in language of the general style of any form used in any court in the Territory, or printed or written in such a manner so as to have the general appearance or format of any form used in any court in the Territory;
- (f) make telephone calls or personal calls of such nature or with such frequency as to constitute harassment of the debtor, his spouse or his family;
- (g) refer or assign an account for collection or seizure of goods to a collection agent without first cancelling in writing any previous referral or assignment to any other collection agent; but one collection agent may act for or on behalf of another collection agent or a barrister or solicitor;
- (h) except with the leave of the court, remove any goods claimed under seizure or distress in the absence of the debtor, his spouse, his agent or an adult resident in the debtor's home;
- (i) seize or levy distress against any goods other than those specifically charged or mortgaged, or to which lawful claim may be made under any statute or judgment;
- (j) make a telephone or personal call or attempt to make a telephone or personal call to or on a debtor to demand payment, or negotiate for payment, or seize or levy distress against goods

- (i) on a Sunday,
 - (ii) on a holiday, or
 - (iii) on any other day except between the hours of seven o'clock in the morning and nine o'clock in the evening;
- (k) make further demand for payment of an account or seize goods or levy distress if the debtor gives notice by registered mail to the credit grantor, his assignee or collection agent, of a claim for set-off or counterclaim under this Ordinance or any other statute or regulations, or under any right of contract until
- (i) the credit grantor, his assignee or collection agent has submitted the matter to a court of competent jurisdiction for adjudication, or
 - (ii) the debtor and the credit grantor, his assignees or collection agent, have agreed in writing to the amount still owing by the debtor in respect of the account after deducting an amount agreed upon for the claim for set-off or counterclaim;
- (l) give, by implication, inference or statement, directly or indirectly, any false information to any person or agency that may be detrimental to a debtor or his spouse; or
- (m) make any demand for payment, by telephone, by personal call, or by writing for payment of an account without indicating the name of the credit grantor with whom the account was incurred, the balance owing on the account, and the identity and authority of the person making the demand. 1971 (1st) c. 3, s. 71.

72. (1) For the purposes of paragraph 71(h) a person may apply to the court for leave to remove goods claimed under seizure or distress in the absence of the debtor, his spouse, his agent or an adult resident in the debtor's home; and subsections 50(2), (3) and (4) apply to the application. Leave to seize

(2) Where any goods are repossessed pursuant to leave of the court granted under subsection (1), sections 47, and 48 do not apply to the repossession. 1971 (1st) c. 3, s. 72. Application of sections 47 and 48 to seizure

73. (1) Where a collection agent, or a creditor, or any other person, charges a debtor with any amount that is not rightfully collectible from the debtor by reason of any provision of section 71, the debtor may Penalty for wrongful collection

- (a) if the amount has been paid by the debtor, recover from the creditor an amount equal to three times the amount of the charge as a debt due to the debtor; or

(b) if the amount has not been paid or partly paid, set-off an amount equal to three times the amount of the charges against the amount rightfully owing to the creditor and, if the amount of the set-off is greater than the amount rightfully owing, recover the excess from the creditor as a debt due to the debtor.

(2) Where a collection agent or a creditor, or any other person, seizes or levies a distress against goods contrary to section 71, the debtor, or any person claiming an interest in the goods through the debtor, may take possession of the goods and recover the cost of taking possession from the collection agent, the creditor, or the other person, as the case may be. 1971 (1st) c. 3, s. 73.

Name of collection agent

74. (1) No collection agent shall conduct the business of collection agent under a name that differs from that under which he is licensed. 1971 (1st) c. 3, s. 74.

Limitations on benefits from business

75. (1) No collection agent shall obtain any benefit, either directly or indirectly, from the conduct of his business as a collection agent other than the agreed schedule of fees payable by the credit grantor using his services and amount not in excess of any fees prescribed under this or any other Ordinance or regulations made thereunder, or any Act of Parliament or regulations made thereunder. 1971 (1st) c. 3, s. 75.

Use of forms

76. (1) No collection agent shall use any form that is an avoidance or a breach of this Ordinance. 1971 (1st) c. 3, s. 76.

Employees

77. (1) Except with the consent of the Commissioner or his authorized officer, no person shall act as collection agent or shall employ or use any person

- (a) who has been convicted of an offence under the *Criminal Code (Canada)*;
- (b) has been convicted of an offence under this Ordinance, or under any statute in force in any part of Canada that is similar in nature to this Ordinance;
- (c) who within the previous ten years has been bankrupt or has been an officer or director of a corporation or a member of a partnership that became bankrupt during the period of his involvement unless, in each case, the creditors in the bankruptcy have been paid in full; or
- (d) who is not registered with the Territorial Secretary in accordance with the regulations. 1971 (1st) c. 3, s. 77.

Proper records

78. (1) Every collection agent shall keep proper records and books of account showing moneys received and moneys

paid out, including a receipt book, a cash book, a ledger of client's accounts, a ledger of debtor's accounts, and a journal, or equivalent accounting records satisfactory to the Territorial Secretary. 1971 (1st) c. 3, s. 78.

79. (1) Every collection agent shall maintain in the Territory a trust account in a bank, trust company or credit union or a branch thereof, and shall deposit all moneys received on behalf of a client in the trust account. Trust account

(2) A collection agent shall not withdraw any moneys from the trust account except Withdrawals from trust account

(a) money paid to or on behalf of a client from funds that have been deposited in the trust account for the credit of the client;

(b) money required for payment to the collection agent of his charges pursuant to an agreement to collect debts or disbursements made on behalf of a client from money in the trust account held for the credit of the client; and

(c) money paid into, or credited to, the trust account by mistake. 1971 (1st) c. 3, s. 79.

80. (1) Every collection agent shall appoint an auditor satisfactory to the Territorial Secretary to audit his books and accounts. Appointment of auditors

(2) Every collection agent shall cause to be prepared and shall submit to the Territorial Secretary within three months of the close of his fiscal year, a statement, certified by the auditor of the collection agent, showing Submission of audited statements

(a) the assets and liabilities of the collection agent; and

(b) the gross amount of moneys collected during the preceding fiscal year of the collection agent. 1971 (1st) c. 3, s. 80.

81. (1) Without notice or demand therefor, every collection agent shall account for all moneys collected by him within thirty days after the end of the calendar month in which the moneys are collected, and if the total of all amounts payable to any person after deduction of any agreed charges is ten dollars or more, he shall at the same time pay the amount to the person entitled to it. Accounting for collections

(2) On demand by a client, or by the Territorial Secretary, a collection agent shall disclose the actions taken and the results obtained in respect of any account referred to him for collection, but neither a client nor the Territorial Secretary Disclosure of actions

shall demand disclosure in respect of any account more frequently than once in any month.

Surrender of documents

(3) Within thirty days after demand by a client therefor, a collection agent shall surrender any documents or records supplied to him by the client in respect of any account referred to him by the client, and shall cease immediately to pursue his efforts to obtain payment from the debtor. 1971 (1st) c. 3, s. 81.

Failure to locate creditor

82. (1) Where a collection agent has collected moneys on behalf of a creditor, and is unable to locate the person entitled to receive the moneys within six months after the moneys have been collected; he shall pay the moneys, less his agreed charges, to the Territorial Treasurer with a statement thereof showing the full name and address last known to him of the person entitled to the moneys.

Disposal of moneys

(2) Where the Territorial Treasurer receives moneys under subsection (1), he shall deposit the money and, if no claim for the money arises within seven years of the date of deposit of the money with the Territorial Treasurer, the money shall be paid into the Consolidated Revenue Fund and is thereupon forfeited to the Territory. 1971 (1st) c. 3, s. 82.

Verification of information

83. (1) Where under this Ordinance any information is required to be given to the Territorial Secretary by a collection agent, the collection agent shall, upon request of the Territorial Secretary give the information verified by affidavit. 1971 (1st) c. 3, s. 83.

PART IX

GENERAL PROVISIONS

Actions against employees in bureau

84. (1) No action lies or shall be instituted against any officer or employee of the government to recover any loss or damages alleged to have been suffered as a consequence of any act or omission in connection with the administration or carrying out of this Ordinance or the regulations. 1971 (1st) c. 3, s. 84.

Penalties

85. (1) Any person who contravenes or fails or neglects to comply with any provision of this Ordinance or the regulations commits an offence and is liable, on summary conviction, to a fine of not more than one thousand dollars for a first offence and to a fine of not more than two thousand dollars or to imprisonment for a term of not more than three

months for any subsequent offence, or, if a corporation, is liable to a fine of not more than two thousand dollars for a first offence and to a fine of not more than five thousand dollars for any subsequent offence. 1971 (1st) c. 3, s. 85.

86. (1) A complaint or information charging any person with an offence under this Ordinance must be laid within two years from the time the offence was committed. 1971 (1st) c. 3, s. 86. Limitation
period for
complaint

87. (1) Every agreement or bargain, oral or written, express or implied, that any of the provisions of this Ordinance or the regulations does not apply or that a benefit or remedy under this Ordinance or the regulations is not available or that in any way limits or abrogates, or in effect limits, modifies or abrogates a benefit or remedy under this Ordinance or the regulations is void and moneys paid under or by reason of the agreement are recoverable in the court. 1971 (1st) c. 3, s. 87. Agreement
waiving benefits

88. (1) For the purpose of carrying out the provisions of this Ordinance according to their intent, the Commissioner may make regulations ancillary thereto and not inconsistent therewith; and every regulation made pursuant to, and in accordance with the authority granted by, this section has the force of law; and, without restricting the generality of the foregoing, the Commissioner may make regulations Regulations

- (a) prescribing the fees payable under this Ordinance;
- (b) exempting any class of buyer, seller, vendor, direct seller, collection agent, credit grantor or borrower or any category of transaction from the application of this Ordinance or any provision thereof;
- (c) prescribing standard forms of contract;
- (d) prescribing the manner in which the cost of borrowing stated as a percentage shall be calculated, expressed and applied and margins of error permissible;
- (e) prescribing the manner in which the unearned portion of the cost of borrowing should be calculated;
- (f) respecting any matter necessary and advisable to carry out effectively the intent and purpose of this Ordinance. 1971 (1st) c. 3, s. 88.

89. (1) Except as otherwise expressly provided, this Ordinance does not apply to any sale, mortgage, loan, contract or agreement made before the thirtieth day of April, 1971. Application to
prior transac-
tions

Use of old forms (2) For a period of eighteen months after the thirtieth day of April, 1971.

(a) any person may continue to use any form of agreement or order form that was used by him and that is contained in a printed catalogue; and

(b) no provision of this Ordinance applies to any advertisement contained in a printed catalogue. 1971 (1st) c. 3, s. 89.

CHAPTER C-14

CONTRIBUTORY NEGLIGENCE ORDINANCE

- 1.** This Ordinance may be cited as the *Contributory Negligence Ordinance*. R.O. 1958, c. 21, s. 1. Short title
- 2.** (1) Subject to subsections (2) and (3), where by the fault of two or more persons damage or loss is caused to one or more of them, the liability to make good the damage or loss is in proportion to the degree in which each person was at fault. Apportionment of damage or loss
- (2) Where, having regard to all the circumstances of the case, it is not possible to establish different degrees of fault, the liability shall be apportioned equally. Equal apportionment in certain cases
- (3) Nothing in this section renders a person liable for damage or loss to which his fault has not contributed. R.O. 1958, c. 21, s. 2. Where no fault
- 3.** (1) Where damage or loss has been caused by the fault of two or more persons, a judge or a jury, as the case may be, shall determine the degree in which each was at fault, and where two or more persons are found at fault, they are jointly and severally liable to the person suffering damage or loss, but as between themselves, in the absence of any contract express or implied, they are liable to make contribution to and to indemnify each other in the degree in which they are respectively found to have been at fault. R.O. 1958, c. 21, s. 3. Degree of fault
- 4.** (1) Unless a judge otherwise directs, the liability for costs of the parties in an action under this Ordinance is in the same proportion as their respective liability for the damage or loss. R.O. 1958, c. 21, s. 4. Apportionment of costs
- 5.** (1) In an action, the amount of damage or loss, the fault, if any, and the degrees of fault are questions of fact. R.O. 1958, c. 21, s. 5. Questions of fact
- 6.** (1) At the trial of an action, a judge shall not take into consideration nor shall he submit to the jury, as the case may be, any question as to whether, notwithstanding the fault of one party, the other could have avoided the consequences Restriction of questions

thereof, unless in the opinion of the judge, there is evidence that the act or omission of the latter was clearly subsequent to and severable from the act or omission of the former so as not to be substantially contemporaneous with it. R.O. 1958, c. 21, s. 6.

Adding party
defendant

7. (1) Where a person who is not a party to an action is or may be wholly or partly responsible for the damages claimed, that person may be added as a defendant or made a third party to the action upon such terms as a judge deems just. R.O. 1958, c. 21, s. 7.

Contribution
where plaintiff is
a passenger

8. (1) Where no cause of action exists against the owner or the person operating a motor vehicle by reason of section 141 of the *Motor Vehicles Ordinance*, no damages or contribution or indemnity are recoverable from any person for the portion of the damage or loss caused by the negligence of the owner or the person operating a motor vehicle, and the portion of the damage or loss so caused shall be determined although such owner or person is not a party to the action. R.O. 1958, c. 21, s. 8.

Contribution
where plaintiff is
spouse of
negligent person

9. (1) In an action founded upon negligence and brought for damage or loss resulting from bodily injury to or the death of a married person, where one of the persons found to be negligent is the spouse of the married person, no damages or contribution or indemnity are recoverable for the portion of damage or loss caused by the negligence of the spouse, and the portion of the loss or damage so caused shall be determined although the spouse is not a party to the action. R.O. 1958, c. 21, s. 9.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER C-15

CONTROVERTED ELECTIONS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Controverted Elections Ordinance*. R.O. 1958, c. 22, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“Clerk” means Clerk of the Court ; “clerk”

“election” means the election in respect of which the respondent named in a petition was declared elected as a member of the Council ; “election”

“electoral district” means an electoral district within the meaning of the *Elections Ordinance* ; “electoral district”

“petition” means a petition brought under this Ordinance ; “petition”

“petitioner” means a person who brings a petition ; “petitioner”

“respondent” means a person against whom a petition is brought. R.O. 1958, c. 22, s. 2. “respondent”

APPLICATION OF RULES OF COURT

3. (1) A petition and all proceedings thereunder shall be deemed to be a civil proceeding to be dealt with as such by the Court, and all provisions of the *Judicature Ordinance* and the rules of Court under that Ordinance shall, insofar as they are not inconsistent with this Ordinance, apply *mutatis mutandis* to such petition and proceedings. *Judicature Ordinance* and rules of Court to apply to proceedings

(2) Practice and procedure on appeals from the judgment of the Court under this Ordinance shall be in accordance with the *Court of Appeal Ordinance*. R.O. 1958, c. 22, s. 3. Procedure on appeals

4. (1) Unless authorized to be made *ex parte* by a provision of this Ordinance, all applications to the Court in connection with proceedings under a petition shall be made in chambers by notice of motion. R.O. 1958, c. 22, s. 4. Application to Court to be made in chambers by notice of motion

PETITIONS

When and by
whom petition
may be brought

5. (1) Any person who was a duly qualified elector at an election may, at any time within thirty days after publication in the *Canada Gazette* of the name of a person declared elected as a member of the Council for an electoral district at such election, bring a petition against the election of such person. R.O. 1958, c. 22, s. 5.

Form and
contents of
petition

6. (1) A petition shall be in Form A Schedule I and shall set forth

- (a) the right of the petitioner to petition,
- (b) a brief statement identifying the holding and results of the election,
- (c) a brief summary of the facts and grounds that the respondent was not eligible for election as a member of the Council relied upon by the petitioner, and
- (d) the prayer that the election of the respondent be declared void and set aside. R.O. 1958, c. 22, s. 6.

Filing of
petition

7. (1) The petition shall be filed within the time prescribed in section 5 with the Clerk.

Security for costs

(2) The petitioner shall, at the time of filing the petition deposit with the Clerk the sum of five hundred dollars as security for the costs of the respondent in respect of proceedings under the petition. R.O. 1958, c. 22, s. 7.

Service of
petition

8. (1) Subject to subsection (2), a copy of the petition shall be served, within twenty days after it has been filed, upon the respondent.

Extension of
time for service,
etc.

(2) The Court may, upon *ex parte* application by the petitioner and upon being satisfied from his affidavit that he has been unable to effect service of the petition upon the respondent after making all reasonable effort to do so, extend the time for effecting service, not exceeding ten days for each extension, or may order substitutional service in such manner as the Court deems expedient. R.O. 1958, c. 22, s. 8.

Address for
service on
petitioner

9. (1) The petition shall have endorsed thereon an address at which service may be made on the petitioner of any documents arising out of proceedings under the petition.

Address for
service on
respondent

(2) The respondent shall, within ten days after service of the petition under section 8, file with the Clerk an address at which service may be made on the respondent of any documents arising out of any proceedings under the petition.

(3) Where any documents are required to be served on the petitioner or the respondent, they shall be lawfully served by leaving them with a responsible adult person at the respective addresses referred to in this section and, where no address is given or where the address given is distant more than three miles from the office of the Clerk, they shall be lawfully served by filing them with the Clerk. R.O. 1958, c. 22, s. 9.

How service is effected

10. (1) A petitioner may withdraw his petition at any time by filing a written notice of such withdrawal with the Clerk and by serving a copy thereof on the respondent and the Court shall, in such case, upon application by the respondent, order the petitioner to pay the respondent's costs. R.O. 1958, c. 22, s. 10.

Withdrawal of petition

APPLICATION ARISING OUT OF PETITIONS

11. (1) The respondent may, within twenty days after service of the petition upon him, apply to the Court to set the petition aside on any of the following grounds;

Application to set aside petition

- (a) that the petitioner is not qualified to bring the petition;
- (b) that the petition was not filed or served within the time prescribed;
- (c) that the prescribed security for costs was not deposited; or
- (d) that the petition does not disclose sufficient facts and grounds for declaring void and setting aside the election of the respondent. R.O. 1958, c. 22, s. 11.

12. (1) The respondent may, within twenty days after service of the petition upon him or, if he has made application under section 11 to set it aside, within five days after the disposal of such application, apply to the Court for an order for particulars or for further particulars of the facts and grounds relied upon to support the petition.

Application for particulars

(2) The Court may order such particulars or such further particulars as it deems necessary to ensure a fair trial and may, in the order, prescribe the time in which such particulars shall be delivered to the applicant and that, in default of delivery, the petitioner shall be precluded from adducing evidence at the trial of the petition with respect to the facts and grounds of which such particulars are ordered. R.O. 1958, c. 22, s. 12.

Order

TRIAL OF PETITIONS

When petition ready for trial

13. (1) Where a petition is not withdrawn or set aside and all applications that may be made with respect thereto have been disposed of or the time for making such applications has expired, the petition shall be at issue and may be set down for trial. R.O. 1958, c. 22, s. 13.

Setting down for trial by petitioner

14. (1) The petitioner may, at any time after a petition is at issue, apply to the Court to appoint a time and place for trial of the petition and the Court shall, on being satisfied that the petition is at issue, appoint a time and place for trial. R.O. 1958, c. 22, s. 14.

Application to dismiss for want of prosecution order

15. (1) Where a petitioner does not, within thirty days after the petition is at issue, make an application to set it down for trial, the respondent may apply to the Court to dismiss the petition.

Dismissal or setting down for trial of petition

(2) The Court may, upon application under this section, dismiss the petition or appoint a time and place for trial of the petition, as it deems advisable. R.O. 1958, c. 22, s. 15.

Open court

16. (1) A petition shall be tried in open court. R.O. 1958, c. 22, s. 16.

Directions and reasons for and entry of judgment

17. (1) The Court shall file with the Clerk its directions as to the judgment to be entered and its reasons therefor and thereupon the petitioner or respondent may, subject to approval of its terms by the Court, enter a formal declaratory judgment pursuant to such directions.

Order as to costs

(2) A judgment under this section shall include provisions as to recovery of costs as the Court has directed.

Report to Commissioner

(3) The Court shall, within fourteen days after filing its directions as to judgment, make and forward to the Commissioner a report of the judgment and directions and reasons therefor.

Report of stay or appeal

(4) The Court shall, as soon as possible, report to the Commissioner any stay of proceedings after judgment or any appeal taken from its judgment. R.O. 1958, c. 22, s. 17.

Where petition dismissed

18. (1) Where the judgment dismisses the petition, the respondent shall continue to be a member of the Council as if the petition had never been brought.

(2) Where the judgment declares that the respondent's election is void and should be set aside, the Commissioner shall, after receiving the report of the Court under section 17, make an order declaring that the respondent's election is void and set aside, and thereupon the respondent's election is void and set aside. Where petition is allowed

(3) Where there is a stay of proceedings after judgment or an appeal taken from the judgment, this section shall not apply until the stay of proceedings is vacated or the appeal dismissed R.O. 1958, c. 22, s. 18. Not to apply during stay or appeal

19. (1) A respondent may file a written notice, supported by his affidavit containing his reasons therefor, admitting that the petition should be allowed and that his election should be declared void and set aside. Written admission of wrongful election

(2) A copy of the notice and affidavit shall be served upon the petitioner. Service

(3) Where the Court is satisfied with the *bona fides* of the notice under subsection (1), it may permit the petitioner to enter, subject to approval of its terms by the Court, a formal declaratory judgment that the respondent's election is void and should be set aside. Entry of judgment.

(4) The provisions of sections 17 and 18 as to entry, report and effect of judgments apply to judgments under this section R.O. 1958, c. 22, s. 19. Effect

APPEALS

20. (1) Where an appeal, as provided in the Court of appeal Ordinance, is taken from the judgment of the Court given under this Ordinance, the Court shall, as soon as possible, send the Commissioner a report of the judgment on appeal and the reasons, if any, given therefor and, upon receipt of the report by the Commissioner, the consequences of such judgment on appeal shall take effect in the same manner as in the case of the judgment of the Court under section 18. R.O. 1958, c. 22, s. 19. Effect of judgment on appeal

COSTS

21. (1) Unless otherwise provided in this Ordinance, costs of a petition and any proceedings thereunder may be awarded as the Court may in its discretion decide. Costs in discretion of Court

(2) The Court may order that any costs to be paid by the petitioner be paid, after final determination of the petition, Costs may be paid out of security deposited

out of the security for costs deposited by the petitioner, but such an order shall not be construed as prohibiting the respondent from recovering costs or any portion thereof by any other lawful means. R.O. 1958, c. 22, s. 21.

NO COUNTING OF BALLOTS

No power to
count ballots

22. (1) Nothing in this Ordinance shall be construed as authorizing the Court in proceedings under this Ordinance to count or recount the ballots cast in an election. R.O. 1958, c. 22, s. 22.

SCHEDULE I

FORM A

PETITION

In the Territorial Court
of the Yukon Territory.

BETWEEN
Petitioner

AND
Respondent

The petition of....., of
....., shows:
(residence) *(occupation)*

1. An election was held on the.....day of.....,
19..... (*state day of general polling day*) for the electoral district of
.....at which.....,
....., and.....

were candidates for election as members of the Council of the
Yukon Territory and the said.....has been
returned as the person elected at the said election.

2. The petitioner was a duly qualified elector at the said election
because.....(*state qualifications*).

3. The petitioner says.....(*state
facts and grounds on which the petitioner relies*).

WHEREFORE the petitioner prays that it may be declared that
the election of the said.....is void and that it be
set aside.

Dated the.....day of.....A.D., 19.....

R.O. 1958, c. 22, Sched.

CHAPTER C-16

CO-OPERATIVE ASSOCIATIONS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Co-operative Associations Ordinance*. 1970 (1st) c. 1, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
- “association” means an association incorporated under this Ordinance; “association”
- “by-laws” mean the standard by-laws and the by-laws of the association; “by-laws”
- “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”
- “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”
- “registrar” means the Registrar of Co-operative Associations appointed by the Commissioner pursuant to section 3; “registrar”
- “standard by-laws” means the by-laws prescribed by the Commissioner pursuant to this Ordinance. 1970 (1st) c. 1, s. 2. “standard by-laws”

INCORPORATION

3. (1) The Commissioner may appoint a Registrar of Co-operative Associations to carry out the duties set forth in this Ordinance. 1970 (1st) c. 1, s. 3. Registrar
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 Memorandum of Association

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 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. 1970 (1st) c. 1, s. 4.

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 conclusive proof

(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. 1970 (1st) c. 1, s. 5.

6. (1) 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. 1970 (1st) c. 1, s. 6. Notice of incorporation

7. (1) 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. 1970 (1st) c. 1, s. 7. Memorandum and by-laws binding on all members

8. (1) 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

(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. 1970 (1st) c. 1, s. 8. Restrictions on use of certain names

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. Change of name

(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. 1970 (1st) c. 1, s. 9. Alteration of memorandum by extraordinary resolution

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 forth in the memorandum of association, the powers set out in Schedule I, 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. 1970 (1st) c. 1, s. 10.

PROHIBITION

Loans to members or directors

11. (1) No loan shall be made by an association to a member or director unless the association is specifically empowered by extraordinary resolution to make such loans. 1970 (1st) c. 1, s. 11.

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

Supplemental by-laws

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

Alteration of by-laws

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

Approval required

(4) No supplementary by-law shall have any force or effect until a copy thereof has been filed with and approved by the Registrar. 1970 (1st) c. 1, s. 12.

SHARES IN ASSOCIATION HAVING SHARE CAPITAL

Shares

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.

Payment by instalments

(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.

(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. 1970 (1st) c. 1, s. 13. 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

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

(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. Where person nominated

(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.

(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. 1970 (1st) c. 1, s. 14. Transfer upon death of member

MEMBERSHIP

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

(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.

Minor

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

- (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 discharges necessary to be executed or given under the by-laws.

Co-operative may be member

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

Expulsion of 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. 1970 (1st) c. 1, s. 15.

LIABILITIES OF SHAREHOLDERS AND MEMBERS

Limitation of shareholders' liability

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

- (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. 1970 (1st) c. 1, s. 16.

MANAGEMENT AND ADMINISTRATION

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.

Registered office

(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

Register

(a) the names, addresses and occupations of the members, 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.

(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. 1970 (1st) c. 1, s. 17.

Inspection of register

18. (1) 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. 1970 (1st) c. 1, s. 18.

Fiscal year

DIRECTORS

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

Number of directors

(2) Where the number of members in an association is ten or more there shall be a minimum of five directors. 1970 (1st) c. 1, s. 19.

Election of 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.

(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.

Acts of directors valid

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

Directors to be members

(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.

Qualification

(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.

Vacancy on board

(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.

General powers of directors

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

Meetings of directors

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

Minors

(9) No member or shareholder under the age of eighteen years shall be a director, manager or treasurer of the association. 1970 (1st) c. 1, s. 20

MEETINGS OF ASSOCIATIONS

Meetings

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.

(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,

(a) a member shall have one vote only regardless of the number of shares held by him, and Votes

(b) no member may vote by proxy except where provision is made in the by-laws for representation by delegates. Proxies
1970 (1st) c. 1, s. 21.

CONTRACTS

22. (1) Contracts on behalf of an association may be made as follows; Contracts

(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.

(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. Marketing contracts

(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 required by the contract to deliver, he may be excluded from membership in the association in accordance with subsection 15(8). 1970 (1st) c. 1, s. 22.

CREDIT

- Borrowing from members** **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.
- Credit pledged** (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. 1970 (1st) c. 1, s. 23.
- Sale on credit** **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.
- "working capital" defined** (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. 1970 (1st) c. 1, s. 24.

DISPOSITION OF SURPLUS

- Annual distribution of surplus.** **25.** (1) 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. 1970 (1st) c. 1, s. 25.
- Maintenance of a reserve for contingencies** **26.** (1) Subject to subsections (2) and (3), an association shall designate not less than twenty percent 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.
- Amount of reserve** (2) Subsection (1) does not apply to an association when its reserve for contingencies reaches an amount equivalent to
 (a) thirty percent 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 percent 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 percent 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 percent 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. 1970 (1st) c. 1, s. 26.

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; Withdrawal of members

- (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 percent 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. 1970 (1st) c. 1, s. 27.

DISSOLUTION

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 mail a letter addressed to the association at its registered office inquiring whether the association is carrying on business or is in operation.

Notification (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 mail 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.

Publication (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 a manner as he deems necessary and send by ordinary mail 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.

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.

Subsistence 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. 1970 (1st) c. 1, s. 28.

Application of Companies Ordinance **29. (1)** The winding up provisions of the *Companies Ordinance* shall, insofar as they are applicable, apply to an association. 1970 (1st) c. 1, s. 29.

SUPERVISION

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. Appointment of auditor

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

(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 Registrar

(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. Annual return to members

(5) An association shall upon request furnish the Registrar with any information he may require for purposes of this Ordinance. 1970 (1st) c. 1, s. 30. Registrar may request information

31. (1) The Registrar shall, upon the order of the Commissioner or upon receipt of a request in writing containing the signatures of Inquiry by Registrar

- (a) at least fifty percent of the members were there are ten members or less in the association, or
- (b) at least ten percent 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. 1970 (1st) c. 1, s. 31.

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 cooperative 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.

Powers and duties of officers removed

(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.

Administrator 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 the steps taken by him to protect their equities.

Administrator 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. 1970 (1st) c. 1, s. 32.

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 Ordi-

nance, or does an act or thing forbidden by this Ordinance; or

- (c) wilfully furnishes information in any respect false or insufficient;

commits an offence.

(2) Every association or corporation that commits an offence against this Ordinance is liable on summary conviction to a fine not exceeding one thousand dollars. Penalty

(3) Every person, other than a person referred to in subsection (2), who commits an offence against this Ordinance is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding two months, or to both 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
 1970 (1st) c. 1, s. 33.

GENERAL

34. (1) 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 out the purposes of this Ordinance. 1970 (1st) c. 1, s. 34.

SCHEDULE I

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 indirectly, 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 cooperation, 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 cooperative 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 cooperative 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 is 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 cooperative 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 14(2), 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.

1970 (1st) c. 1, Sched. A.

CHAPTER C-17

CORNEA TRANSPLANT ORDINANCE

1. This Ordinance may be cited as the *Cornea Transplant Ordinance*. 1962 (5th) c. 2, s. 1. Short title

2. (1) In this Ordinance, "person lawfully in possession of the body" does not include Interpretation

- (a) a coroner in possession of a body for the purpose of investigation; or
- (b) an embalmer or funeral director in possession of a body for the purpose of its burial, cremation or other disposition. 1962 (5th) c. 2, s. 2.

3. (1) Where a person, either in writing at any time, or orally in the presence of at least two witnesses during his last illness, has requested that his eyes be used after his death for the purpose of improving or restoring the sight of a living person and he dies in a hospital, the administrative head of the hospital, or the person acting in that capacity, may authorize the removal of the eyes from the body of the deceased person by a duly qualified medical practitioner and their use for that purpose. 1962 (5th) c. 2, s. 3. Removal of eyes on deceased's request, death in hospital

4. (1) Where a person, either in writing at any time, or orally in the presence of at least two witnesses during his last illness, has requested that his eyes be used after his death for the purpose of improving or restoring the sight of a living person and he dies in a place other than a hospital, his spouse or, if none, any of his children of full age or, if none, either of his parents or, if none, any of his brothers or sisters or, if none, the person lawfully in possession of the body of the deceased person may authorize the removal of the eyes from the body of the deceased person by a duly qualified medical practitioner and their use for that purpose. 1962 (5th) c. 2, s. 4. Idem., death outside hospital

5. (1) Where a person has not made a request under section 3 or 4 and dies either in or outside a hospital, his spouse or, if none, any of his children of full age or, if none, either of his parents or, if none, any of his brothers or sisters or, if none, the person lawfully in possession of the body of the deceased person may authorize the removal of the eyes from the body of the deceased person by a duly qualified medical Removal of eyes without deceased's request

practitioner and their use for the purpose of improving or restoring the sight of a living person. 1962 (5th) c. 2, s. 5.

Authority sufficient

6. (1) An authority given under section 3, 4 or 5 is sufficient warrant for the removal of the eyes from the body of the deceased person by a duly qualified medical practitioner and their use for the purpose of improving or restoring the sight of a living person. 1962 (5th) c. 2, s. 6.

Exception

7. (1) An authority shall not be given under section 3 or 4 if the person empowered to give the authority has reason to believe that the person who made the request subsequently withdrew it. 1962 (5th) c. 2, s. 7.

Idem.

8. (1) An authority shall not be given under section 3, 4 or 5 if the person empowered to give the authority has reason to believe that an inquest may be required to be held on the body of the deceased. 1962 (5th) c. 2, s. 8.

Idem.

9. (1) Any duly qualified medical practitioner who is authorized pursuant to this Ordinance to remove the eyes from the body of a deceased person shall not do so if

(a) he has reason to believe that the person who made the request that his eyes be used after his death for the purpose of improving or restoring the sight of a living person subsequently withdrew the same; or

(b) he has reason to believe that an inquest may be required to be held on the body of the deceased. 1962 (5th) c. 2, s. 9.

Lawful dealings not affected

10. (1) Nothing in this Ordinance makes unlawful any dealing with the body of a deceased person that would be lawful if this Ordinance had not been passed. 1962 (5th) c. 2, s. 10.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER C-18

CORONERS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Coroners Ordinance*. Short title R.O. 1958, c. 24, s. 1.

APPOINTMENT AND REMOVAL

2. (1) The Commissioner may appoint one or more coroners for the Territory and may at any time remove, supersede or dispense with any or all of them and appoint others in their place. R.O. 1958, c. 24, s. 2. Appointment and removal

3. (1) A coroner shall, before entering upon the duties of his office, take and subscribe to, before a judge magistrate, justice of the peace or a person authorized by the Commissioner to administer oaths, an oath of allegiance and an oath of office. Oaths to be taken

(2) The oath of allegiance to be taken by a coroner is as follows; Oath of allegiance

“I,....., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law. So help me God.”

(3) The oath of office to be taken by the coroner is as follows; Oath of office

“I,, do solemnly and sincerely promise and swear that I will faithfully and honestly fulfill the duties that devolve upon me by reason of my appointment as a coroner and that I will not, without due authority on that behalf, disclose or make known any matter that comes to my knowledge by reason of my duties or office. So help me God.” R.O. 1958, c. 24, s. 3.

JURISDICTION

4. (1) The coroner residing nearest the place where the death occurred or the place at which the body is found or nearest the route of travel by which such place can be most Nearest coroner usually has jurisdiction

readily reached has jurisdiction to act as coroner respecting a deceased person.

Any coroner may be directed to hold inquest, etc.

(2) Notwithstanding subsection (1), a coroner has jurisdiction throughout the Territory and the Commissioner or a judge may at any time direct a coroner to make an investigation or hold an inquest at any place in the Territory, in which case the jurisdiction of other coroners, whether they are within subsection (1) or not, is suspended respecting such investigation or inquest. R.O. 1958, c. 24, s. 4.

DISQUALIFICATION

Where disqualified

5. (1) A coroner shall not conduct an inquest or make an investigation into the circumstances connected with the death of a person

- (a) on whom he has attended in his professional capacity as a medical practitioner at any time during the period of thirty days immediately prior to the day of that person's death ;
- (b) on whose body he has, otherwise than in the course of an inquest or investigation in his capacity as coroner, performed an autopsy or post mortem examination ; or
- (c) whose death has been caused at, on or in or in connection with a railway, mine or other work in respect of which the coroner is the owner, part owner, director, etc., or employed as a medical attendant or in some other capacity by the owner or manager or under any agreement or understanding, direct or indirect, with the employees at, on or in such work.

CORONERS

To notify commissioner of disqualification

(2) Where a coroner who would normally exercise jurisdiction under section 4 or is directed pursuant to that section to exercise jurisdiction is disqualified from so doing under subsection (1) of this section, he shall immediately notify the Commissioner and the nearest available coroner of his disqualification. R. O. 1958, c. 24, s. 5.

NOTICE TO CORONER

Duty to notify coroner

6. (1) A medical practitioner, undertaker, embalmer, peace officer or any person residing in the house in which the deceased resided immediately prior to his death or any other person who has reason to believe that a deceased person died as a result of violence, misadventure or unfair means, from any cause other than disease or sickness, as a result of negligence, misconduct or malpractice on the part of others

or under such other circumstances as require investigation shall immediately notify the coroner who ordinarily has jurisdiction in the locality in which the body of the deceased person is found, of the circumstances relating to the death. R. O. 1958, c. 24, s. 6.

WARRANTS AND INVESTIGATIONS

7. (1) Subject to subsection (3) where a coroner is notified that there is, within his jurisdiction, the body of a deceased person respecting whom there is reason to believe that death resulted from violence, misadventure or unfair means or a cause other than disease or sickness, as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require investigation, he shall, unless disqualified from acting under this Ordinance issue his warrant, in Form A in Schedule I, to take possession of the body and shall view the body and make such further inquiry as may be required to satisfy himself whether or not an inquest is necessary. 1966 (2nd) c. 10, s. 1.

Duty of coroner to issue warrant, view body, etc.

(2) Unless otherwise directed by the Commissioner or a judge, where a coroner has issued a warrant under this section, no other coroner shall issue a warrant or interfere in the case.

Other coroners not to interfere

(3) Where a coroner is notified of a death occurring without the attendance of a duly qualified medical practitioner, he is not required to issue his warrant to take possession of the body or view the body, if, after inquiry into all the circumstances connected with the death, he is satisfied that it is unnecessary to hold an inquest.

Where unnecessary to issue warrant

(4) For the purposes of making inquiries under this section, a coroner may request the assistance of one or more peace officers who shall, upon such request, make immediate inquiries into the circumstances of the death and submit a detailed report of the results of such inquiries to the coroner.

Assistance of peace officers

(5) A coroner may, with the approval of the Commissioner, employ experts to assist him in an inquiry. R.O. 1958, c. 24, s. 7; 1966 (2nd) c. 10, s. 1.

Employment of experts

8. (1) Where the coroner, after investigation, is satisfied that an inquest is unnecessary, he shall

Burial warrant, etc., when no inquest

(a) issue his warrant to bury the body, in Form B in Schedule I;

(b) forthwith transmit to the Commissioner an affidavit, in Form C in Schedule I, setting forth briefly the result

of the inquiry and the grounds on which he issued the burial warrant; and

- (c) forthwith transmit to the funeral director or undertaker or other person having charge of the body the information and particulars required under the *Vital Statistics Ordinance*.

Commissioner may direct inquest

(2) Notwithstanding the decision of a coroner and transmission of an affidavit under subsection (1), the Commissioner may direct the coroner or some other coroner to hold an inquest on the body and the coroner so directed shall forthwith hold an inquest. R.O. 1958, c. 24, s. 8.

INQUESTS GENERALLY

Duty to hold inquest

9. (1) Where a coroner, after investigation, has good reason to believe that a deceased person came to his death as a result of violence, misadventure or unfair means or as a result of negligence, misconduct or malpractice on the part of others or under such other circumstances as require an inquest, he shall hold an inquest.

Affidavit

(2) Before holding an inquest, the coroner shall make an affidavit in Form D in Schedule I which shall be returned and filed by the coroner with the inquisition.

Exceptions

(3) Subsection (2) does not apply to an inquest held at the direction of the Commissioner or a judge or an inquest held on the body of a prisoner who died in or about any prison, gaol or lockup or in the custody of a peace officer. R.O. 1958, c. 24, s. 9.

Direction of Commissioner or judge to hold inquest

10. (1) Where the Commissioner or a judge has reason to believe that a deceased person came to his death under circumstances which, in his opinion, make the holding of an inquest advisable, he may direct any coroner to conduct an inquest into the death of such person and the coroner so directed shall conduct an inquest in accordance with this Ordinance, whether or not he or any other coroner has viewed the body, made an inquiry or investigation, held an inquest into or done any other act in connection with the death. R.O. 1958, c. 24, s. 10.

Where death of prisoner

11. (1) Where a prisoner in a prison, gaol or lockup or in the custody of the Royal Canadian Mounted Police or a peace officer dies and notice of his death is given to a coroner by the warden or other official or person in charge or in whose custody the prisoner was, the coroner shall issue his

warrant in Form A in Schedule I and hold an inquest on the body. R.O. 1958, c. 24, s. 11.

12. (1) Where the body of a person respecting whom it is necessary to hold an inquest has been buried and the coroner is of opinion that no good purpose would be affected by disinterring the body for the purposes of the inquest, the Commissioner or a judge may, either upon application to him or otherwise, issue written permission to the coroner concerned to proceed therewith without disinterring the body. Inquest without exhumation

(2) Where the body of a person respecting whom it is necessary to hold an inquest has been transported out of the Territory to be interred, the Commissioner or a judge may, either upon application to him or otherwise, issue written permission to the coroner concerned to proceed therewith without having the body brought back to the Territory. R.O. 1958, c. 24, s. 12.

13. (1) Where a coroner is satisfied that a death, respecting which it is necessary to hold an inquest, has occurred within his jurisdiction, but, either due to the cause of death or for any other reason, the body or any part thereof cannot be found or recovered the coroner may, after first obtaining the written consent of the Commissioner or a judge, proceed to hold, without any view of the body, an inquiry as to the cause of death and it shall be conducted in all other respects in the same manner as other inquests held under this Ordinance. R.O. 1958, c. 24, s. 13. Inquest without viewing body

14. (1) Where an inquest is to be held upon the body of a person who met death by violence in the wreck of a building, bridge, structure, embankment, aircraft, motor vehicle, boat, machine or apparatus, the coroner may take charge of all wreckage and place peace officers in charge thereof in order to prevent any disturbance of the wreckage until such examinations as are deemed necessary by the coroner have been completed. R.O. 1958, c. 24, s. 14. May preserve scene of death, etc.

15. (1) Subject to subsections (2) and (3), a coroner may, where he considers it advisable, Post-mortem examination

(a) for the purposes of an investigation, or

(b) prior to the termination of an inquest,

conduct a post-mortem examination or direct that a post-mortem examination be conducted by a medical practitioner.

Permission where no inquest ordered

(2) Where a coroner proposes to conduct a post-mortem examination or to direct a medical practitioner to do so for the purposes of an investigation and an inquest has not been ordered, the examination shall not be made without the permission of a judge, the Commissioner or a person authorized by the Commissioner.

Interested medical practitioners excluded

(3) Where the coroner has reason to believe that the death was directly or indirectly caused by the improper or negligent action of a medical practitioner or other person, that medical practitioner or other person shall not be allowed to perform or assist at the post-mortem examination.

Disinterment

(4) Where a coroner is of opinion that the body of a deceased person that has been buried should be disinterred for the purposes of an examination or where he is so directed by the Commissioner or a judge, the coroner shall issue a warrant in Form J in Schedule I.

To notify Registrar General of Vital Statistics

(5) A copy of a coroner's warrant for disinterment shall be sent to the Registrar General of Vital Statistics and a re-burial certificate secured.

Accounts

(6) The coroner shall send to the Commissioner the accounts in respect of a post-mortem examination. R.O. 1958, c. 24, s. 15.

Inquests involving mining accidents

16. (1) Where an inquest is held concerning a death caused by an accident at, or in connection with a mine, the coroner shall send reasonable notice of its time and place to a person who is an inspector under the *Mining Safety Ordinance* or a person authorized to act for him and such inspector or other person is entitled to be present and to cross-examine any witness at the inquest.

Postponement

(2) Where the inspector or other person who receives notice of an inquest fails to appear at the appointed time or place or requests a postponement or adjournment of the inquest, the coroner may postpone or adjourn the inquest if he deems it advisable in the public interest to do so, but no postponement or adjournment shall exceed twenty-four hours.

Jury to contain mine employees

(3) In the case of an inquest under this section, the jury, if any, shall wherever practicable contain at least three employees of the mine, of whom at least one is familiar with the work in respect of which the accident arose. R.O. 1958, c. 24, s. 16.

CORONER'S JURIES

17. (1) At an inquest held pursuant to this or any other Ordinance, a coroner shall, where he is of opinion that it is practicable to secure a jury, sit with a jury but may, where he is of opinion that it is not practicable to secure a jury, proceed without a jury, and, in the latter case, has full authority to find such verdict as a jury might have found.

Coroner to sit with jury where practicable but may otherwise dispense there-with

(2) Subject to this Ordinance or any other Ordinance, a coroner's jury shall consist of six male persons who are qualified to serve and liable to serve as jurors under the *Jury Ordinance*.

Composition and qualifications

(3) Where in his opinion it is practicable to secure a coroner's jury, the coroner shall, as soon as possible, issue his warrant in Form E in Schedule I to a sheriff, or other peace officer to summon six male persons to form the coroner's jury.

Warrant to summon jury

(4) The summons to a person to serve on a coroner's jury shall be in Form F in Schedule I and shall specify the time, place and purpose of the inquest and the name and address of the person upon whom it is to be served.

(5) Subject to section 16, no person who, whether or not liable or qualified to serve as a juror under the *Jury Ordinance*, is

Special disqualification

(a) an officer, employee or inmate of a hospital, asylum, charitable institution, gaol, prison or lockup in which the death of a deceased person occurred; or

(b) the owner or an employee of the owner of any building or premises used for any trade or business and in which the death of a deceased person occurred;

shall serve on the coroner's jury at an inquest respecting the death of such deceased person. R.O. 1958, c. 24, s. 17.

18. (1) The sheriff, or other peace officer to whom the coroner's warrant is issued under subsection 17(3) shall attend at the time and place appointed for the inquest and make his return as to the summoning of the jurors.

Report on jury summons

(2) Where six jurors are present the coroner shall proceed with the inquest.

Attendance of full jury

(3) Where less than six jurors are present upon the return of the summons, the coroner shall order the sheriff, or other peace officer to summon, by word of mouth if necessary, a sufficient number of male persons, whether qualified jurors or not, to complete the jury and where a full jury cannot be obtained within one hour from the time fixed for the com-

Where less than full jury

mencement of the inquest, the coroner may proceed with a jury of not less than three jurors or dispense with a jury.

Verdict

(4) Where a coroner's jury consists of six persons, five of them may return a verdict but, where the jury consists of less than six persons, the verdict must be unanimous. R.O. 1958, c. 24, s. 18.

Report where no jury, etc.

19. (1) Where an inquest is held without a coroner's jury or with a coroner's jury consisting of less than six persons, the inquisition shall state that the inquest has been so held and give the reasons therefor. R.O. 1958, c. 24, s. 19.

Arrest of juror for failure to appear

20. (1) Where a person duly summoned to serve on a coroner's jury does not, after being openly called three times, appear in answer to the summons, the coroner may, after proof upon oath that the summons has been served upon such person, issue a warrant to a peace officer commanding him to arrest such person and bring him before the coroner at the time and place specified in the warrant.

Punishment

(2) Where a person who is referred to in subsection (1) is brought before the coroner and fails to show cause why he did not obey the summons or refuses without reasonable excuse to serve, the coroner may impose upon him a fine not exceeding fifty dollars plus costs or may, in default of payment of such fine, commit him, by warrant in Form G in Schedule I, to prison for a term not exceeding thirty days. R.O. 1958, c. 24, s. 20.

WITNESSES

Summons

21. (1) A coroner may issue a summons respecting any person who, in his opinion may be able to give material evidence at an inquest, requiring him to appear at the time and place mentioned therein, to testify to all matters within his knowledge relative to the subject matter of the inquest and to bring with him and produce any document, book, paper, article or thing that he has in his possession or under his control relative to the subject matter of the inquest.

Service

(2) The original summons may contain the names of any number of witnesses and the copy served on each witness may do likewise or may contain only the name of the witness upon whom it is served and shall be served in the same manner as under the *Jury Ordinance*.

Arrest of witness for failure to appear, etc.

(3) Where a person duly summoned to give evidence at an inquest fails to appear or refuses to be sworn or to give

evidence at such inquest, the coroner may, after proof upon oath, that the summons has been served upon such person, issue a warrant to a constable or other peace officer commanding him to arrest such person and bring him before the coroner at the time and place specified in the warrant.

(4) Where a person who is referred to in subsection (3) is brought before the coroner and fails to show cause why he did not obey the summons or has refused without reasonable excuse to be sworn or to give evidence, the coroner may impose upon him a fine not exceeding fifty dollars plus costs or may, in default of payment of such fine, commit him, by warrant in Form G in Schedule I, to prison for a term not exceeding thirty days. R.O. 1958, c. 24, s. 21.

Punishment

PROCEDURE AT INQUESTS

22. (1) Where a coroner's jury is to sit at an inquest, the coroner shall, before commencing any other proceedings at the inquest, swear the jurors or cause them to be sworn before him to inquire diligently touching the death in respect of which the inquest is to be held and to render a true verdict according to the evidence.

Swearing of jurors

(2) The coroner and the jury, if any, shall, at the first sitting of the inquest, view the body, unless a view has been dispensed with under this Ordinance, and the coroner shall examine, upon oath or affirmation, all persons he thinks expedient to examine as witnesses.

View of body and examination of witnesses

(3) A person who has been charged or is likely to be charged with an offence relating to the death concerning which the inquest is held is not compellable to give evidence at the inquest and the coroner shall so advise such person before he gives evidence.

Persons charged or to be charged do not have to give evidence

(4) Counsel representing Her Majesty may attend at an inquest and may examine or cross-examine the witnesses called and the coroner shall summon any witness required on behalf of Her Majesty.

Rights of Crown counsel

(5) A coroner may employ the services of an interpreter at an inquest. R.O. 1958, c. 24, s. 22.

Interpreter

23. (1) Subject to subsection (2), the coroner shall put into writing the evidence of each witness, or so much thereof as he deems material and each deposition shall be signed by the witness concerned and by the coroner.

Evidence in writing

Shorthand evidence

(2) With the consent of the Commissioner, a judge or counsel representing Her Majesty, the evidence or any part thereof may be taken in shorthand by a stenographer appointed for that purpose by the coroner and duly sworn to truly and faithfully report the evidence, and, where so taken, the signatures of the witnesses are unnecessary but the transcript shall be signed by the coroner and certified by the stenographer that it is a true report of the evidence.

Where transcript prepared

(3) Shorthand evidence need not be transcribed into English unless the Commissioner, a judge or counsel representing Her Majesty so directs or any person requests a transcript and pays the stenographer therefor. R.O. 1958, c. 24, s. 23.

Verdict and inquisition

24. (1) After viewing the body, unless a view is dispensed with under this Ordinance, and after hearing the evidence and the summing up by the coroner, the coroner's jury shall render their verdict, or the coroner shall in the absence of a jury pronounce his verdict, and the verdict shall be certified by an inquisition in writing, in Form H in Schedule I, setting forth, so far as the evidence indicates, the identity of the deceased and how, when and where he came to his death.

Signing

(2) An inquisition shall be signed by the jurors who concur in the verdict and by the coroner. R.O. 1958, c. 24, s. 24.

Where jury disagree

25. (1) Where in a coroner's jury of six members five of them cannot agree on a verdict or where in a coroner's jury of less than six members there is not unanimous agreement, the coroner may discharge the jury after having first taken the findings that have been agreed upon.

Report

(2) The coroner shall then submit the evidence, the findings agreed upon, if any, and a report of the inquest to the Commissioner or a judge, either of whom may order the coroner to summon another jury and hold a second inquest or take such other action as the Commissioner or judge deems proper. R.O. 1958, c. 24, s. 25.

May adjourn

26. (1) A coroner may, in order to obtain further evidence, adjourn an inquest from time to time and for such period as he thinks necessary and may, upon an adjournment take the recognizances of jurors and witnesses for their appearance at the adjourned sittings.

May resume with one juror absent

(2) Where an inquest is adjourned and a juror who had attended is unable to attend, by reason of death, illness or other good cause, at the resumed sittings, the coroner may

proceed with the inquest if at least three jurors are present or proceed without a jury. R.O. 1958, c. 24, s. 26.

PROCEDURE AFTER INQUEST

27. (1) As soon as possible after the conclusion of an inquest held by him, a coroner shall Reports

(a) forward to the Commissioner or a judge, as the case may be, the following;

- (i) the inquisition in Form H, in Schedule I,
- (ii) the affidavit, if any, in Form D, in Schedule I,
- (iii) any depositions of witnesses taken pursuant to subsection 23 (1),
- (iv) a transcript of the evidence taken pursuant to subsection 23 (2) where the Commissioner, a judge or counsel representing Her Majesty has ordered it to be transcribed and, where no such order has been given, the stenographer's notes of the evidence,
- (v) such exhibits as may be forwarded or, where they are too bulky or cannot otherwise be moved, a description thereof; and

(b) forward to the undertaker or other person having charge of the body or to the district registrar of the registration district in which the death occurred, as the case may require, such information as is required to be furnished under the *Vital Statistics Ordinance*. R.O. 1958, c. 24, s. 27. To undertaker,
etc.

OFFENCES AND PENALTIES

28. (1) Every person who, under section 6, is required to notify a coroner of the death of a person and, unless some other person referred to in that section has already given the necessary notice fails to do so commits an offence and is liable upon summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 24, s. 28. Failure to notify
coroner

29. (1) A coroner who makes an investigation or conducts an inquest when he is, pursuant to section 5, disqualified from so doing commits an offence and is liable upon summary conviction to a fine not exceeding two hundred dollars. R.O. 1958, c. 24, s. 29. Where coroner
acts when
disqualified

30. (1) Where, except for the purpose of saving life or relieving suffering, a person, without authority from the coroner, interferes with, destroys, carries away or alters the Disturbing scene
of death

position of wreckage or anything connected therewith resulting from the wreck of a building, bridge, structure, embankment, aircraft, motor vehicle, boat, machine or apparatus that has caused death by violence, such person commits an offence and is liable upon summary conviction to a fine not exceeding one hundred dollars and where it is shown that the offence was wilfully committed for the purpose of making away with or destroying evidence, the person guilty thereof is liable on summary conviction to imprisonment for a term not exceeding six months. R.O. 1958, c. 24, s. 30.

General offence
and penalty

31. (1) Every person who violates a provision of this Ordinance for which no punishment is elsewhere provided in this Ordinance commits an offence and is liable upon summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment. R.O. 1958, c. 24, s. 31.

GENERAL

Annual report

32. (1) Every coroner shall at the end of each year transmit to the Commissioner a statement, in Form I in schedule I setting forth the investigations, inquests and their particulars made and conducted by him during such year. R.O. 1958, c. 24, s. 32.

Where murder

33. (1) Where a death occurs as a result of which a person is charged with murder or manslaughter, the Commissioner or a judge may, but need not, direct that no inquest shall be held or continued concerning that death. R.O. 1958, c. 24, s. 33.

May appoint
special coroner
to take over

34. (1) The Commissioner may appoint a special coroner for any inquiry or inquest with power to take over from any other coroner such inquiry or inquest at any stage thereof and the special coroner has, upon taking over, exclusive jurisdiction in the matter of the inquiry or inquest and may, in his discretion or as directed by the Commissioner, either continue the proceedings at the stage at which they were when he assumed jurisdiction or may commence the proceedings *de novo* and, in the latter case, everything previously done shall have no effect. R.O. 1958, c. 24, s. 34.

Fees, etc.

35. (1) Unless otherwise prescribed in an Ordinance, the fees and allowances payable to coroners, witnesses, jurors, stenographers, interpreters or medical practitioners in connection with their duties or service under this Ordinance are those prescribed by the Commissioner. R.O. 1958, c. 24, s. 35.

SCHEDULE I

FORM A

WARRANT TO TAKE POSSESSION OF BODY

Canada }
Yukon Territory }
To Wit: }

To.....and to all
sheriffs or other peace officers whom it may concern:

Whereas it has been made to appear to me that.....
..... has died.....

(Note: here insert either:

- (a) as a result of violence;
- (b) by misadventure or by unfair means or from a cause other than sickness or disease;
- (c) as a result of negligence or misconduct or malpractice on the part of others; or
- (d) under circumstances that require an investigation)

and that such body is now lying at.....
a place in which I have jurisdiction as coroner.

Therefore, by virtue of my office, I command you, in the name of Her Majesty, to take possession of the body of the deceased and to safely keep the same and to deal with the same as may be directed by me until a further order is made by me concerning the same.

And for so doing, this shall be your full and sufficient warrant and authority.

Given under my hand at.....in
the Yukon Territory, this.....day of.....19.....

.....
A Coroner for the Yukon Territory

R.O. 1958, c. 24, Sched.

FORM B

WARRANT FOR BURIAL

Canada }
Yukon Territory }
To Wit: }

To.....and to all
others whom it may concern:

Whereas I have viewed the body of.....
.....now lying dead at.....
and have inquired into the circumstances of the death;

And whereas I (am satisfied that an inquest is unnecessary)
OR (hereby certify that the body has been viewed at an inquest)
(*strike out portion that is not applicable*).

These presents are, therefore, to certify that you may lawfully
permit the body of the said.....
.....to be buried; and for so doing this shall
be your full and sufficient warrant and authority.

Given under my hand at.....in the Yukon
Territory, this.....day of.....19.....

.....
A Coroner for the Yukon Territory

R.O. 1958, c. 24, Sched

FORM C

AFFIDAVIT WHERE INQUEST UNNECESSARY

Canada Yukon Territory To Wit:	}	I,.....of thein the Yukon Territory, a coroner for the said Territory, make oath and say:
--------------------------------------	---	--

1. That from information received by me, I was of opinion that there was reason for believing that.....deceased, died.....

(Note: here insert either:

- (a) a result of violence;
- (b) by misadventure or by unfair means or from a cause other than sickness or disease;
- (c) as a result of negligence or misconduct or malpractice on the part of others; or
- (d) under circumstances that require an investigation).

2. That I have since caused the circumstances of the death of the said.....to be inquired into, and by reason of such inquiries, I am satisfied that the death was not the result of any wrongful act or omission on the part of any person and that an inquest is unnecessary and that the said deceased came to his (her) death on the.....day of.....19....., at.....in the said Territory, from.....
(insert cause of death)

3. I have, in consequence, issued my warrant to bury the body of the said.....

SWORN before me atin the Yukon Territory, this..... day of.....19.....	} <i>Coroner</i>
---	---	-------------------------

A.....

FORM D

AFFIDAVIT BEFORE HOLDING INQUEST

Canada Yukon Territory To Wit:	}	I,.....of thein the Yukon Territory, a coroner for the said Territory make oath and say:
--------------------------------------	---	---

That from information received by me, I am of opinion that there is reason for believing that..... now lying dead at..... did not come to his death from natural causes or from mere accident or mischance, but that he came to his death from violence or unfair means of culpable or negligent conduct of others or under circumstances requiring investigation by a coroner's inquest.

SWORN before me at Yukon Territory, this..... day of.....19.....	} <i>Coroner</i>
---	---	-------------------------

A.....

R.O. 1958, c. 24, Sched.

FORM E

WARRANT TO SUMMON JURY

Canada }
Yukon Territory }
To Wit:

To: Name.....

Address.....

By virtue of my office, I hereby direct you, in the name of Her Majesty the Queen, to summon and warn personally six persons, liable for jury duty in accordance with the *Jury Ordinance* and the *Coroners Ordinance*, to appear before me on the date and at the time and place indicated below to undertake the duties of jurymen on a coroner's jury to do and execute such things as shall be then given them.

You are further directed to appear at the time and place given below to make a return of those you shall summon.

Purpose of Inquest

To enquire into
the death of.....

Particulars of Inquest

Date:

Time:

Place:

.....
A Coroner for the Yukon Territory

R.O. 1958, c. 24, Sched.

FORM F

SUMMONS

Canada }
Yukon Territory }
To Wit:

By virtue of a warrant under the hand of the presiding coroner, you are hereby summoned personally to be and appear before him as a juryman on the day, hour and place indicated below and then and there to enquire on Her Majesty's behalf touching the death of.....
and further to do and execute such other matters and things as may be given to you and not to depart without leave.

Failure to appear will render you liable to a fine or, in default of payment, to imprisonment.

TO: Name:
Address:
Occupation:

Purpose of Inquest

Particulars of Inquest

Place:
Date:
Time:

.....
A peace officer, or

R.O. 1958, c. 24, Sched.

FORM G

WARRANT OF COMMITMENT

Canada }
Yukon Territory }
To Wit:

To the Warden of..... at.....
in the.....

Whereas..... was duly summoned
to appear before me on the..... day of.....
19....., to serve as a juror (or to be a witness) at an inquest
to be held touching the death of.....
.....

And whereas the said....., after
being openly called upon has failed to show cause why he did
not appear as summoned (or, having appeared, refused with-
out reasonable excuse to serve as a juryman or to be sworn
or to give evidence) (*Strike out portion that is not applicable*).

And whereas I did adjudge the said.....
for his default to pay a fine of..... dollars
and the costs of his apprehension and in default of immediate
payment that the said..... be imprisoned for
..... days unless the said several sums be sooner paid.

And whereas the said..... made default
of payment of the said several sums.

These are therefore to command you to take the said
..... and safely convey him to
..... gaol and there deliver him to the warden
or other person in charge thereof, together with these pres-
ents.

And I do hereby command you, the warden of the said gaol
to receive the said..... into your custody and
imprison him for the term of..... days, unless the
said several sums are sooner paid to you; and this shall be
your sufficient warrant and authority for so doing.

Given under my hand this..... day of.....
19.....

.....
A Coroner for the Yukon Territory

FORM H
INQUISITION

Canada }
Yukon Territory }
To wit:

An inquisition taken for Her Majesty the Queen at.....
.....in the.....
day of.....on the.....day of
.....19....., (and by adjournment on
the.....day of.....19.....) before
.....one of Her Majesty's coroners
for the Yukon Territory, on view of the body of.....
.....then and there lying dead, the
undersigned and.....

.....
(Names of jurymen, if applicable)
being duly sworn and charged to inquire for Her Majesty
when, where, how and by what means the said.....
.....came to his (her) death, do upon
their oath say:

In witness whereof, the coroner has hereunto set his hand
(and, the jurymen have hereunto set their hands) this
.....day of.....19.....

R.O. 1958, c. 24, Sched.

FORM I

CORONER'S RETURN

(Note: This return is required by section 32 of the *Coroners Ordinance*, to be filed and forwarded to the Commissioner at the end of every year. If no inquests or investigations were held by him, the form should be marked "nil" and returned to the Commissioner.

In all cases in which the coroner, after investigation, finds an inquest unnecessary, the words "Inquest deemed unnecessary" will be inserted after the place of death.)

<u>Name of Deceased</u>	<u>Place of Residence</u>	<u>Occupation</u>	<u>Place of Death</u>	<u>Place of Inquest</u>	<u>Date of Inquest</u>	<u>Finding</u>
-------------------------	---------------------------	-------------------	-----------------------	-------------------------	------------------------	----------------

I, the undersigned, one of Her Majesty's coroners in and for the Yukon Territory, do certify the above to be a correct return of all investigations and inquests held by me for the year.....

Dated.....19.....

.....
Coroner

R.O. 1958, c. 24, Sched.

FORM J

WARRANT TO TAKE UP A BODY INTERRED

Canada }
Yukon Territory }

To.....
(*person in charge of cemetery*)

WHEREAS the body of one
was buried on or about the day of
19 , in the cemetery at which cemetery
is under your direction; and

WHEREAS there exists some doubt as to the cause of death
of the said

Now therefore this warrant given under my hand as one of
Her Majesty's coroners for the Yukon Territory is to charge
and command you to cause the body of the said.....
to be disinterred and removed from the said cemetery to
.....for the purpose of an inquest to determine
the cause of death. Herein fail not, as you will answer the
contrary at your peril. Given under my hand this
day of 19

.....
Coroner

R.O. 1958, c. 24, Sched.

CHAPTER C-19

CORPORATION SECURITIES REGISTRATION
ORDINANCE

1. This Ordinance may be cited as the *Corporation Securities Registration Ordinance*. 1963 (1st) c. 3, s. 1. Short title
2. (1) In this Ordinance Definitions
- “assignment” includes every legal or equitable assignment by way of security of, and every mortgage or other charge upon, book debts; “assignment”
- “assignor” means any corporation making an assignment of book debts; “assignor”
- “book debts” means all existing or future debts that in the ordinary course of business would be entered in the books of a corporation, whether actually entered or not, and includes any part or class thereof; “book debts”
- “chattels” means goods and chattels capable of complete transfer by delivery and includes, when separately assigned or charged, fixtures and growing crops, but does not include “chattels”
- (a) chattel interests in real property,
 - (b) fixtures when assigned together with a freehold or leasehold interest in any land or building to which they are affixed,
 - (c) growing crops when assigned together with any interest in the land on which they grow,
 - (d) a ship or vessel registered under the *Canada Shipping Act* or the *Merchant Shipping Act, 1894* (United Kingdom), or a share in such a ship or vessel,
 - (e) an interest in the stock, funds or securities of a government or in the capital of a corporation, or
 - (f) a book debt or other chose in action;
- “corporation” means a company, corporation or body corporate, wherever or however incorporated; “corporation”
- “creditor” means a creditor of the assignor or mortgagor who becomes a creditor before the registration of the assignment of book debts, charge or mortgage; “creditor”

"mortgagee"	"mortgagee" includes a person in whose favour a charge is created ;
"mortgagor"	"mortgagor" includes a corporation that executes a charge ;
"Registrar"	"Registrar" means the person appointed Registrar of Corporation Securities pursuant to section 13 ;
"subsequent purchasers or mortgagees"	"subsequent purchasers or mortgagees" includes any person who obtains, whether by way of purchase, mortgage, charge or assignment, an interest in chattels or book debts which have already been mortgaged, charged or assigned. 1963 (1st) c. 3, s. 2.

Instruments to be registered

3. (1) Every mortgage and every charge, whether specific or floating, of chattels in the Territory made by a corporation and every assignment of book debts, whether by way of specific or floating charge, made by a corporation engaged in a trade or business in the Territory, and contained

- (a) in a trust deed or other instrument to secure bonds, debentures or debenture stock of the corporation or of any other corporation ;
- (b) in any bonds, debentures or debenture stock of the corporation as well as in the trust deed or other instrument securing the same, or in a trust deed or other instrument securing the bonds, debentures or debenture stock of any other corporation ; or
- (c) in any bonds, debentures, debenture stock or any series of bonds or debentures of the corporation not secured by a separate instrument,

is void as against creditors of the mortgagor or assignor and as against subsequent purchasers or mortgagees from or under the mortgagor or assignor, in good faith, for valuable consideration and without notice, unless it is duly registered, and unless, if contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, it complies with the provisions of subsection (2).

Affidavit

(2) If the mortgage, charge or assignment is contained in a trust deed or other instrument to secure bonds, debentures or debenture stock, the instrument containing it shall be accompanied by an affidavit of

- (a) the mortgagee, trustee or grantee or one of the mortgagees, trustees or grantees, his or their agent, or
- (b) any officer or agent of the corporation, if the mortgagee, trustee or grantee is a corporation,

stating that the instrument containing the mortgage, charge or assignment was executed in good faith and for the purpose

of securing payment of the bonds, debentures or debenture stock referred to therein and not for the mere purpose of protecting the chattels or book debts therein mentioned against the creditors of the mortgagor or assignor or preventing such creditors from obtaining payment of any claim against the mortgagor or assignor.

(3) A mortgage, charge or assignment required to be registered under this Ordinance takes effect as against creditors and the subsequent purchasers or mortgagees referred to in subsection (1) only from the time of its registration. 1963 (1st) c. 3, s. 3.

Mortgage, etc. take effect only from time of registration

4. (1) Subject to subsection (2), registration of every mortgage, charge or assignment shall be effected by filing with the Registrar within thirty days from the date of the execution of the instrument

Registration

- (a) a duplicate original of the instrument containing the mortgage, charge or assignment;
- (b) the affidavit described in subsection 3(2), and
- (c) an affidavit made by any officer or agent of the mortgagor or assignor stating the date of the execution of the instrument by the mortgagor or assignor.

(2) Registration of every mortgage, charge or assignment, contained in bonds, debentures or any series thereof or in debenture stock not secured by a separate instrument shall be effected by filing with the Registrar, within thirty days after the execution of the bonds, debentures or debenture stock, an affidavit made by any officer or agent of the mortgagor or assignor, setting forth

Registration of mortgage, etc. contained in bonds, debentures or debenture stock

- (a) the total amount secured by the bonds, debentures or series thereof, or debenture stock;
- (b) a true copy of one of the bonds or debentures or of one bond or debenture of the series or of the debenture stock certificate; and
- (c) the date of execution of the bonds, debentures or debenture stock. 1963 (1st) c. 3, s. 4.

5. (1) Any affidavit made for the purpose of this Ordinance by an officer or agent of the corporation shall state that the deponent

Affidavit of corporation officer

- (a) is aware of the circumstances connected with the transaction, and
- (b) has personal knowledge of the facts deposed to. 1963 (1st) c. 3, s. 5.

Minutes of
registration

6. (1) The Registrar shall cause every instrument containing a mortgage, charge or assignment and every affidavit filed in his office under this Ordinance to be

- (a) numbered;
- (b) endorsed with a memorandum of the day, hour and minute of its filing; and
- (c) indexed by entering in alphabetical order in a register kept by him
 - (i) the names of the parties to the mortgage, charge or assignment,
 - (ii) the date of execution of the instrument containing the mortgage, charge or assignment or the date of execution of the bonds, debentures or debenture stock not secured by separate instrument as shown by the affidavit filed, and
 - (iii) the date of filing and the amount secured as shown by the instrument or by the affidavit. 1963 (1st) c. 3, s. 6.

Rectification of
omissions and
misstatements

7. (1) A judge, on being satisfied that the failure to file an instrument or affidavit within the time prescribed by this Ordinance or that any omission or misstatement in any document filed under this Ordinance was accidental or due to inadvertence or impossibility or other sufficient cause, may, in his discretion and subject to the rights of any person accruing by reason of any failure, omission or misstatement referred to in this section

- (a) extend the time for registration, or
- (b) order the omission or misstatement to be rectified on such terms and conditions, if any, as to security, notice by advertisement or otherwise, or as to any other matter or thing, as he thinks fit.

and the judge's order or a copy thereof shall be annexed to the instrument or affidavit or document or copy thereof on file or tendered for filing, and the appropriate entries shall be made in the register. 1963 (1st) c. 3, s. 7.

Defects and
irregularities

8. (1) No defect or irregularity in the execution of an instrument containing a mortgage, charge or assignment, no defect, irregularity or omission in any affidavit, and no error of a clerical nature or in an immaterial or non-essential part of the instrument shall invalidate or destroy the effect of the mortgage, charge or assignment or the registration thereof, unless in the opinion of the court or judge before whom a question relating thereto is tried, the defect, irregularity, omission or error has actually misled some person whose

interests are affected by the mortgage, charge or assignment. 1963 (1st) c. 3, s. 8.

9. (1) An assignment of a mortgage of chattels, a charge of chattels or of an assignment of book debts may be filed with the Registrar. Assignments

(2) A mortgage, charge or assignment of book debts registered under this Ordinance with the Registrar may be discharged in whole or in part by filing with the Registrar a certificate of discharge signed by the mortgagee, trustee or assignee, his or its executors, administrators, successors or assigns and, except in the case of a certificate of discharge executed by a corporation under its corporate seal, the certificate shall be accompanied by the affidavit of an attesting witness of the execution thereof. Discharge of mortgage, charge or assignment of book debts

(3) Where a mortgage, charge or assignment of book debts has been assigned, no certificate or discharge by an assignee shall be registered until the assignment thereof has been registered. Discharge where there has been an assignment

(4) In the case of a mortgage, charge or assignment contained in bonds, debentures or any series thereof or in debenture stock not secured by a separate instrument, the Registrar may, on evidence being given to his satisfaction that the debt for which the mortgage, charge or assignment was given as security has been paid or satisfied, enter a memorandum of discharge in the register, and shall, if required, furnish the mortgagor or assignor with a copy thereof. Registrar may enter memorandum of discharge

(5) The Registrar shall note each assignment or discharge of a mortgage or assignment of book debts against each entry in the books of his office respecting the filing of the instrument or affidavit, and shall make a like notation upon the affidavit filed under subsection 4. 1963, (1st) c. 3, s. 9. Recording of discharges and assignments

10. (1) Upon payment of the prescribed fees the Registrar shall give Certificate of filing

- (a) a certificate under his hand of the filing of any instrument or affidavit in pursuance of this Ordinance, and of the day and hour of such filing, and
- (b) a certificate as to prior registrations, if any, of mortgages, charges or assignments created or made by the mortgagor or assignor.

(2) Every certificate furnished by the Registrar touching any matter dealt with by this Ordinance and every copy of a document filed under this Ordinance certified by the Registrar. Evidence

trar, shall be received as evidence for all purposes as if the original document were produced and as *prima facie* proof of the execution of the original document according to the purport of such copy.

Proof of Registrar's signature not necessary

(3) No proof shall be required of the signature of the Registrar in respect of any certificate produced as evidence pursuant to this section. 1963 (1st) c. 3, s. 10.

Searches

11. (1) Upon payment of the prescribed fees every person shall have access to and be entitled to inspect the books of the Registrar containing records or entries of mortgages, charges or assignments or documents registered or filed under this Ordinance.

Inspection of mortgage, etc.

(2) The Registrar shall, upon request accompanied by payment of the prescribed fees, produce for inspection any mortgage, charge assignment or document registered or filed under this Ordinance. 1963 (1st) c. 3, s. 11.

Regulations

12. (1) The Commissioner may make regulations
 (a) prescribing fees required to be paid to the Registrar by this Ordinance, and
 (b) generally, for carrying out the purposes of this Ordinance. 1963 (1st) c. 3, s. 12.

Appointment of Registrar

13. (1) The Commissioner from time to time may, by order, appoint such person or persons as he thinks proper to act as Registrar of Corporation Securities or Deputy Registrar of Corporation Securities. 1963 (1st) c. 3, s. 13; 1963 (2nd) c. 6, s. 1.

Application

14. (1) This Ordinance applies only to mortgages or charges of chattels or assignments of book debts executed after the 7th of May, 1963. 1963 (1st) c. 3, s. 14.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER C-20

COURT OF APPEAL ORDINANCE

1. This Ordinance may be cited as the *Court of Appeal Ordinance*. 1971 (1st) c. 4, s. 1. Short title

2. (1) In this Ordinance Definitions

“Clerk of the Court” means the clerk of the Court appointed pursuant to the Territorial Court Ordinance; “Clerk of the Court”

“Court” means the Territorial Court of the Yukon Territory. 1971 (1st) c. 4, s. 2. “Court”

3. (1) There shall be a Court of Appeal in the Territory called the Court of Appeal which shall be a superior court of record and shall have the same powers, jurisdiction and authority in relation to matters arising in the Territory possessed immediately prior to the 1st of January, 1971 by the Court of Appeal for British Columbia in relation to matters arising in British Columbia in the exercise of its ordinary jurisdiction and without restricting the generality of the foregoing, the Court of Appeal has jurisdiction and power to hear and determine; Court of Appeal established

- (a) all appeals or motions in the nature of appeals respecting judgments, orders or decisions of the Territorial Court or a judge thereof; and
- (b) all other petitions, motions, matters or things whatever that might lawfully be brought in England before a Divisional Court of the High Court of Justice or before the Court of Appeal on the 1st of January, 1971. 1971 (1st) c. 4, s. 3.

4. (1) An appeal lies to the Court of Appeal, Where appeal lies

- (a) from every judgment, order or decree made by the Court or a judge thereof and whether final or interlocutory;
- (b) from every decision of the Court or a judge thereof in any of the following matters or in any proceeding in connection with them or any of them, namely;
 - (i) Certiorari,
 - (ii) Quo Warranto,
 - (iii) Mandamus,

- (iv) Prohibition.
- (v) Habeas Corpus; and
- (c) under the provisions of any Ordinance or any Act of the Parliament of Canada.

Appeal where authorized by Ordinance

(2) Notwithstanding section 3 or subsection (1) of this section, an appeal lies to the Court of Appeal from a judgment, order or decree made by the Court on appeal from any other court, only if authorized by an Act of the Parliament of Canada or an Ordinance and subject to the provisions thereof. 1971 (1st) c. 4, s. 4.

Composition of Court of Appeal

5. (1) The judges of the Court of Appeal shall consist of a chief justice and such number of justices of appeal not exceeding twelve as the Governor-in-Council may appoint. 1971 (1st) c. 4, s. 5.

Oath of judges

6. (1) Every judge of the Court of Appeal shall, before assuming the duties of his office, take and subscribe before a judge of the Court, the Commissioner or a person appointed by the Commissioner for that purpose, the following oath ;

“I do solemnly and sincerely promise and swear that I will duly and faithfully and to the best of my skill and knowledge execute the powers and trusts reposed in me as one of the judges of the Court of Appeal. So help me God.” 1971 (1st) c. 4, s. 6.

Chief Justice

7. (1) Where the Chief Justice of the Court of Appeal is unable to act or the office is vacant, the senior puisne judge among the judges appointed has and may exercise and perform the powers and functions of the Chief Justice. 1971 (1st) c. 4, s. 7.

Chief Justice to preside

8. (1) The Chief Justice of the Court of Appeal has rank and precedence over all other judges of the Territory and shall preside at any sittings of the Court of Appeal at which he is present and the senior puisne judge who is present shall preside at any sittings of the Court of Appeal at which the Chief Justice of the Court of Appeal is not present. 1971 (1st) c. 4, s. 8.

Sittings

9. (1) The Court of Appeal may sit in the Territory or in the Province of British Columbia. 1971 (1st) c. 4, s. 9.

Quorum

10. (1) Three judges of the Court of Appeal constitute a quorum and may lawfully hold court. 1971 (1st) c. 4, s. 10.

11. (1) There shall be a Registrar of the Court of Appeal who shall perform such functions and exercise such powers as may be determined from time to time by the Chief Justice of the Court of Appeal.

(2) The Commissioner shall appoint the Registrar of the Court of Appeal and such other officers, clerks and employees as are necessary to the operation of the Court of Appeal.

Appointment of Registrar and such other officers

(3) The Clerk of the Court is *ex officio* a Deputy Registrar of the Court of Appeal and may exercise and perform such powers and functions as may be determined from time to time by the Chief Justice of the Court of Appeal.

Deputy Registrar

(4) No person shall by virtue only of an appointment under this Ordinance be deemed to be a member of the public service of the Territory. 1971 (1st) c. 4, s. 11.

12. (1) Notice of an appeal to the Court of Appeal shall be given within thirty days from the day the judgment, order or decree appealed from is pronounced or within such additional time as the judge who made the same or a judge of the Court of Appeal may allow. 1971 (1st) c. 4, s. 12.

Notice of appeal

13. (1) The judges of the Court of Appeal may make rules for regulating the practice and procedure upon appeals to the Court of Appeal. 1971 (1st) c. 4, s. 13.

Rules

14. (1) Proceedings in appeals under this Ordinance, when not otherwise provided for by this Ordinance or the rules made under section 13, shall be as nearly as possible in conformity with the rules of the Court of Appeal for British Columbia. 1971 (1st) c. 4, s. 14.

Rules of British Columbia Court of Appeal applicable

15. (1) Execution of the judgment appealed from shall not be stayed except under order of the judge of the Court or the Court of Appeal, or a judge thereof, and upon such terms as may be just. 1971 (1st) c. 4, s. 15.

Stay of

16. (1) Where any matter is before the Court of Appeal as constituted before the coming into force of this Ordinance, such matter shall be dealt with, continued or determined by the Court of Appeal in accordance with this Ordinance. 1971 (1st) c. 4, s. 16.

CHAPTER C-21

CREDIT UNIONS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Credit Unions Ordinance*. R.O. 1958, c. 25, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
- “credit union” means a credit union incorporated under this Ordinance; “credit union”
- “Registrar” means the Registrar of credit unions mentioned in section 3. R.O. 1958, c. 25, s. 2. “Registrar”

3. (1) “Registrar” means the Registrar of Joint-stock Companies or other officer performing the duty of Registrar of Companies under the *Companies Ordinance*. R.O. 1958, c. 25, s. 3; 1965 (2nd) c. 2, s. 1. “Registrar”

INCORPORATION

4. (1) Any ten or more residents of the Yukon Territory who desire to associate themselves together as a credit union for the objects hereinafter set forth may, in the presence of a witness, sign in duplicate and cause to be filed in the office of the Registrar a memorandum of association in accordance with Form A of Schedule II, to which shall be attached an affidavit certifying the signatures. R.O. 1958, c. 25, s. 4. Memorandum of association

5. (1) The memorandum of association shall state the name of the credit union, the place at which its registered office is to be situated, the names and addresses of the subscribers to the memorandum and the number of shares subscribed by each. R.O. 1958, c. 25, s. 5. Contents of memorandum of association

6. (1) Upon the memorandum of association being filed and the Registrar being satisfied that the objects stated therein comply with the provisions of this Ordinance, the Registrar shall issue a certificate of incorporation in Form B of Schedule II. R.O. 1958, c. 25, s. 6. Certificate of incorporation

Effect of certificate of incorporation

7. (1) The subscribers to the memorandum and such other people and such credit unions as may thereafter become members of the credit union shall thereupon become and be a body corporate under its registered name, and the certificate shall be conclusive evidence of incorporation. R.O. 1958, c. 25, s. 7.

Publication of notice of incorporation

8. (1) The Registrar shall cause a notice of incorporation to be published, at the expense of the credit union, in one issue of the *Yukon Gazette*. R.O. 1958, c. 25, s. 8.

NAME

Restrictions

9. (1) No credit union shall be registered under a name identical with that under which any other credit union is registered or so nearly resembling the same as to be likely to deceive.

(2) The words "Credit Union" and the word "Limited" or "Ltd" shall form part of the name of every credit union registered under this Ordinance.

(3) The Registrar may refuse incorporation to any credit union whose name or part of whose name includes any of the following words; "Imperial", "Crown", "Kings", "Queens", "Royal", "Dominion", "Yukon" or words of similar import. R.O. 1958, c. 25, s. 9.

BY-LAWS

By-laws

10. (1) The by-laws of a credit union shall in every case contain provisions in respect of the several matters mentioned in Schedule I, set out as nearly as possible in the order therein specified.

(2) A credit union may pass supplementary laws in addition to those in Schedule I, but such supplementary by-laws shall not be inconsistent with the provisions of this Ordinance.

(3) No by-laws shall become operative until approved by the Registrar. R.O. 1958, c. 25, s. 10.

CAPITAL AND SHARES

Capitalization

11. (1) The capital of every credit union shall be unlimited in amount and shall be divided into shares of a par value of five dollars each. R.O. 1958, c. 25, s. 11.

12. (1) The shares may be payable by instalments at such time and in such manner as may be determined by by-law. R.O. 1958, c. 25, s. 12. Purchase of shares

13. (1) No shareholder shall receive interest on any but the paid up portion of his shares. R.O. 1958, c. 25, s. 13. Interest

14. (1) Subject to subsections (2) and (3) shares may be assigned or transferred or may be repurchased by the credit union. Transfer of shares

(2) No assignment, transfer or repurchase shall be valid unless approved by the directors.

(3) No assignment, transfer or repurchase shall be approved by the directors if it would reduce the total number of shareholders below ten. R.O. 1958, c. 25, s. 14.

15. (1) Every shareholder shall be individually liable to the creditors of the credit union for debts and liabilities of the credit union to an amount equal to the sum unpaid on the shares for which the shareholder has subscribed in writing, but no shareholder shall be liable to an action in respect of such unpaid balance until an execution at the suit of the creditors against the credit union has been returned unsatisfied in whole or in part. R.O. 1958, c. 25, s. 15. Liability of shareholders

OBJECTS AND POWERS

16. (1) The objects of a credit union shall be the promotion of thrift among its members and the creation of a source of credit for its members, at lawful rates of interest, exclusively for provident and productive purposes. R.O. 1958, c. 25, s. 16. Objects

17. (1) for the purpose of carrying out its objects, every credit union may, subject to this Ordinance, Powers

- (a) receive the savings of its members as payment on shares and as deposits either in individual or in joint accounts;
- (b) make loans to its members for provident or productive purposes;
- (c) make loans to credit unions or co-operative associations that are members;
- (d) deposit money in chartered banks in Canada, in post office savings banks, with loan companies and trust companies authorized to receive money on deposit;

- (e) invest in any stocks, bonds or securities of the Government of Canada, or securities the principal and interest of which are guaranteed by the Government of Canada ;
- (f) borrow money as hereinafter provided ;
- (g) draw, make, accept, indorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferrable instruments ;
- (h) become a member of an organization, as the Registrar may permit, for the purpose of establishing and supporting or aiding in the establishment and support of associations, institutions, funds, trusts and conveniences calculated to benefit members, employees or ex-employees of the credit union or the dependants or connections of such persons, grant benefits and allowances and make payments towards insurance ; and
- (i) do all such other acts and things as are incidental or conducive to or consequential upon the attainment of its objects. R.O. 1958, c. 25, s. 17.

Lands and buildings

18. (1) A credit union may for its purposes hold, purchase or take on lease in its own name any land and buildings, and may sell, exchange, mortgage or lease the same.

(2) The value of land and buildings so required for the purpose of its business shall not exceed five thousand dollars except by resolution of a general meeting of the members and with the approval of the Registrar.

(3) Subsection (2) does not apply to land and buildings acquired by a credit union as security for or in settlement of a claim, and any property so acquired may be sold, exchanged, mortgaged or leased. R.O. 1958, c. 25, s. 18.

Entrance fee

19. (1) A credit union may charge an entrance fee not exceeding that authorized by the by-laws. R. O. 1958, c. 25, s. 19.

Change of office

20. (1) A credit union may change its registered office on written notice to the Registrar. R. O. 1958, c. 25, s. 20.

ORGANIZATION

First meeting

21. (1) Within ten days after receipt of the certificate of incorporation by the provisional secretary, he shall give notice to each of the applicants for incorporation, stating that the certificate has been received, and calling a meeting of the credit union for the organization thereof. R. O. 1958, c. 25, s. 21.

22. (1) Subject to subsections (2) and (3), at that meeting the credit union should elect a board of directors of not less than five members, a credit committee of not less than three members and a supervisory committee of three members; and the persons so elected shall hold office until the first annual meeting and until their successors are elected; any one director may also be a member of the credit committee.

Election of
directors and
committees

(2) No director or member of the credit committee shall be a member of the supervisory committee.

(3) Persons who are directors or other officers of any credit union or association that is a member pursuant to section 45 may be elected as directors or members of the credit committee of a credit union, provided that the number of such persons shall not form a majority of the combined board of directors and credit committee of such credit union. R. O. 1958, c. 25, s. 22.

23. (1) At their first meeting, which shall be held within ten days after their election, the directors shall choose from their own number a president and vice-president, and shall appoint a secretary and a treasurer or a secretary-treasurer, who may or may not be a director. R. O. 1958, c. 25, s. 23.

Appointment of
officers

24. (1) No member of the board of directors or of the credit or the supervisory committee shall, as such, receive remuneration, but the secretary and the treasurer or secretary-treasurer may be paid such salaries or salary as the directors may determine. R. O. 1958, c. 25, s. 24.

Remuneration

25. (1) A record of the names and addresses of the directors, the members of the committees and of the officers shall be filed with the Registrar within ten days after their election or appointment. R. O. 1958, c. 25, s. 25.

Returns to
Registrar

DUTIES OF DIRECTORS

26. (1) Subject to this Ordinance, the directors shall have the general management of the affairs of the credit union and in particular shall;

Duties

- (a) act on each application for membership and on the expulsion of members;
- (b) determine the maximum individual share holdings and the maximum individual loans that may be made with and without security;
- (c) determine the maximum individual loan and the aggregate amount of such loans where terms of repay-

ment extend over a period of more than three years; but the total of all such outstanding loans made by a credit union to the members shall not at any time exceed an amount equivalent to twenty per cent of its combined paid up capital and deposits unless otherwise authorized by supplementary by-law of the credit union;

- (d) determine interest rates on loans and on deposits;
- (e) declare dividends;
- (f) have charge of investments other than loans to members;
- (g) require officers and employees handling money to furnish fidelity bonds issued by a guarantee company in such amounts as the directors shall fix, but in no event shall the amount be less than that set forth from time to time in the standard by-laws governing all credit unions;
- (h) fill vacancies in the board of directors and in the credit committee until the next annual meeting and successors are chosen;
- (i) require that all negotiable securities held by the credit union, whether lodged as collateral or not for safe keeping on behalf of the members, be placed in a suitable safekeeping depository, and in joint custody where feasible;
- (j) designate the depository for lodgment of negotiable securities held by the credit union; and
- (k) perform such duties as are required by this Ordinance and by the by-laws. R.O. 1958, c. 25, s. 26.

CREDIT COMMITTEE AND LOANS

Jurisdiction of
credit committee

27. (1) Subject to sections 31 and 33, the credit committee shall have the general supervision of all loans to members and, subject to any general order of the board and the provisions of this Ordinance, shall fix the amount and rate of interest on each loan.

(2) At least a majority of the credit committee shall be present when a loan is under consideration, and approval of a loan shall be the unanimous decision of the members present. R.O. 1958, c. 25, s. 27.

Purpose of loans

28. (1) Every loan shall be for a provident or productive purpose R.O. 1958, c. 25, s. 28.

Applications

29. (1) Every application for a loan shall be on form provided by the credit committee, and shall set forth the

purpose for which the loan is desired, the security, if any is offered, and such other information as may be required by the committee. R.O. 1958, c. 25, s. 29.

30. (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. Security

(2) An assignment of shares or of deposits or the indorsements of a note may be taken as security. R.O. 1958, c. 25, s. 30; 1970 (2nd) c. 4, s. 1.

31. (1) Notwithstanding anything contained in this Ordinance, a majority of the members of the credit committee and board of directors, sitting together, may by unanimous resolution authorize the treasurer to grant loans for provident or productive purposes to members who make application therefor, in each case to an amount not exceeding the value of any paid-up shares in the credit union held by the applicant and assigned as security to the credit union and the market value of any stocks, bonds or securities of the Government of Canada, so held and assigned, and upon such other conditions as may be specified in the resolution, and the treasurer may grant loans in accordance with the resolution without submitting the application to the credit committee. R.O. 1958, c. 25, s. 31. Authority of treasurer to grant loans

32. (1) No director, officer or member of the credit committee or the supervisory committee shall be allowed to borrow in excess of the value of his shares and deposits and accumulated earnings assigned as security to the credit union and the market value of any stocks, bonds or securities of the Government of Canada held by him and so assigned, unless upon the unanimous vote of a majority of the members of the credit committee, two or more directors and one member of the supervisory committee, sitting together, the said director, officer or member not being present when the vote is taken. R.O. 1958, c. 25, s. 32. Restrictions on loans to directors, officers, etc.

33. (1) In determining the matter of a loan to a member association or credit union, the members of the credit committee and the board of directors shall sit together and a majority of the combined bodies shall be present but no director or other officer of a member association or credit union who is a member of the combined bodies shall vote respecting a loan to the member association or credit union of which he is a director or officer. Loan to member corporations

(2) Any decision to make a loan to a member association or credit union shall be unanimous and subject to the consent of the Registrar. R.O. 1958, c. 25, s. 33.

Prohibitions **34.** (1) No credit union shall lend money to or accept deposits from any person who is not a member to the credit union. R.O. 1958, c. 25, s. 34.

Interest rates **35.** (1) Interest rates on loans made by a credit union shall not exceed one per cent per month on unpaid balances. R.O. 1958, c. 25, s. 35.

Repayment **36.** (1) A borrower may repay his loan in whole or in part on any day on which the office of the credit union is open for business. R.O. 1958, c. 25, s. 36.

SUPERVISORY COMMITTEE

Duties **37.** (1) The supervisory committee shall

- (a) make an examination of the affairs of the credit union at least quarterly, and, if deemed necessary by the committee, call a meeting of the credit union for consideration of the report of the committee;
- (b) unless an auditor has been appointed under section 38, make an annual audit and submit a report thereon to the annual meeting;
- (c) fill vacancies in its own membership;
- (d) if deemed necessary, by unanimous vote of all the members of the committee, suspend any officer, and call a meeting of the credit union to consider the report of the committee on such suspension; and
- (e) call a special meeting to consider any matter or matters that, in the opinion of the committee, should be placed before the credit union. R.O. 1958, c. 25, s. 37.

Appointment of auditor **38.** (1) Where the combined share capital and deposits of a credit union exceed two hundred and fifty thousand dollars the supervisory committee, subject to the approval of the Registrar, may recommend to the annual meeting that a qualified auditor be appointed to conduct an annual audit of the books and accounts of the credit union.

(2) Upon such recommendation the members in annual meeting may appoint as auditor a chartered accountant or any other qualified person approved in either case by the Registrar.

(3) Where an auditor is appointed the supervisory committee shall submit the auditor's report to the next annual meeting. R.O. 1958, c. 25, s. 38.

BORROWING POWERS

39. (1) Subject to the consent of the Registrar, a credit union may from time to time borrow moneys not exceeding in the aggregate twenty-five per cent of its combined capital, surplus and deposits, upon a vote of at least three-fourths of the members of the board of directors, and may from time to time borrow moneys not exceeding in the aggregate fifty per cent of its combined capital, surplus and deposits, upon a vote of three-fourths of the members present, or one-third of the total membership, whichever is the greater, taken at an annual meeting of the credit union or at a special meeting called for the purpose, with those voting in support of the resolution representing a majority of the shares issued. R.O. 1958, c. 25, s. 39.

Powers and
procedure

40. (1) A credit union may charge, hypothecate, mortgage or pledge its real or personal property, rights and powers, undertakings, franchises, including book debts and unpaid calls of the credit union, to secure any liability for the repayment of moneys borrowed in pursuance of a resolution passed under section 39. R.O. 1958, c. 25, s. 40.

Powers of
hypothecation

APPORTIONMENT OF SURPLUS

41. (1) After paying all expenses including interest, if any, on deposits and after making proper allowance for depreciation, the directors shall present to the annual meeting for confirmation a resolution respecting the apportionment of the surplus arising from the yearly business of the credit union, which resolution shall provide

Apportionment

- (a) that there be set aside as a reserve fund against uncollectable loans and probable future losses, all entrance fees, fines collected from members and, at the end of each fiscal year, at least twenty-five per cent of the surplus, and so from year to year until such reserve fund is equal to at least ten per cent of the assets of the credit union from time to time;

and may provide

- (b) that after setting aside such part of the surplus as is required for the reserve fund, a dividend of a specified amount, but not exceeding five per cent per annum, be paid to the shareholders on all fully paid-up shares

shown by the books of the credit union as outstanding at the end of the preceding fiscal year ;

- (c) that there be set aside, if the by-laws so provide, a specified amount, but not exceeding five percent of the surplus, to be used for such educational purposes as the directors may determine, but the moneys so set aside from time to time shall be expended within three years after they are set aside, or transferred within such period to the reserve fund ;
- (d) that there be set aside a specified amount for emergencies or estimated losses, or special expenditures needed to achieve the objects of the credit union, but the moneys so set aside shall be expended within three years after they are set aside, or transferred within such period to the reserve fund or paid as dividends on shares or as borrower dividends for the fiscal year preceding the annual meeting at which they are set aside ; and
- (e) that, after making provision for a reserve fund, the payment of dividends on shares, an educational fund, if any, and an emergency fund, if any, the remainder, if any, of the surplus be divided among the members as a borrower dividend in proportion to the amount of interest paid by them to the credit union on all loans or on specified classes of loans during the preceding fiscal year. R.O. 1958, c. 25, s. 41.

Investment and use of reserve fund

42. (1) The reserve fund may be invested in the stocks, bonds or securities of the Government of Canada or may be deposited in accordance with paragraph (17)(d).

(2) The income received from such investments or deposits shall form a part of the general revenue of the credit union.

(3) The fund shall be held as a reserve against uncollectable loans or losses and shall not be used for any other purpose except on liquidation. R.O. 1958, c. 25, s. 42.

MEMBERSHIP

Minimum membership

43. (1) Every credit union shall have a membership of at least ten. R.O. 1958, c. 25, s. 43.

Members limited to groups

44. (1) Subject to section 45, the membership of a credit union shall be limited to groups of persons having a common bond of occupation or association, or to groups within a well defined neighbourhood, community, municipality or district. R.O. 1958, c. 25, s. 44.

45. (1) Any other credit union may be a member of a credit union. Certain corporations may be members

(2) An association incorporated under the *Co-Operative Association Ordinance* may be a member of a credit union if such association is composed for the most part of the same general group as that comprising the membership of the credit union.

(3) A credit union or a co-operative association admitted as a member of a credit union may vote at meetings of the credit union by a duly appointed delegate, in accordance with the supplemental by-laws of the credit union.

(4) The terms and conditions upon which a member credit union or co-operative association may obtain loans shall be those set forth in a supplementary by-law of the lending credit union and not inconsistent with this Ordinance but the total amount of all loans made by a credit union to member credit unions and co-operative associations shall not at any time exceed an amount equivalent to twenty-five percent of its combined paid up capital and deposits. R.O. 1958, c. 25, s. 45.

46. (1) A minor may be a member but a minor shall not vote until he has reached the age of sixteen years, nor shall he be elected as a director or as a member of the credit committee or supervisory committee until he has attained the age of eighteen years; and upon attaining the age of eighteen years he may enjoy all the rights of a member. R.O. 1958, c. 25, s. 46. Minors

47. (1) A register, or list of shareholders, shall be kept by every credit union, and such register shall show and shall be *prima facie* evidence of Register of members

- (a) the names, addresses and occupations of the shareholders, the number of shares held by them respectively, the numbers of such shares and the amount paid or considered as paid thereon;
- (b) the date on which each shareholder was registered; and
- (c) the date at which any shareholder ceased to be such. R.O. 1958, c. 25, s. 47.

48. (1) The directors by at least a two-thirds vote, at a meeting duly called and at which a majority of the directors are present, may expel a member from the credit union. Expulsion of member

(2) Within five days from the date on which the member is expelled, the secretary shall notify him in writing of the action of the directors.

(3) An appeal from the action of the directors may be taken by the member to the next general meeting of the credit union if written notice of the intention to appeal is given by him to the secretary within thirty days from the date of the receipt of the notice mentioned in subsection (2).

(4) At such meeting a majority of the members present may confirm or rescind the action of the directors. R.O. 1958, c. 25, s. 48.

Withdrawal of member

49. (1) A member may withdraw from the credit union at any time on giving such notice of withdrawal as may be required by the by-laws or such additional notice as, in any particular case, the directors may deem necessary and is approved by the Registrar. R.O. 1958, c. 25, s. 49.

Payments to expelled or withdrawing member

50. (1) All amounts paid in on shares or as deposits by a member who is expelled or withdraws and any relative dividends or interest shall be paid to him as funds become available and after deducting all amounts due from him to the credit union. R.O. 1958, c. 25, s. 50.

Effect of expulsion on withdrawal

51. (1) A member who is expelled or withdraws shall have no further rights in the credit union but shall not be released, by such expulsion or withdrawal, from any remaining liability to the credit union. R.O. 1958, c. 25, s. 51.

Officers, etc. not to withdraw or transfer shares

52. (1) No member entrusted with or participating in the direct management of the affairs of a credit union shall withdraw, or transfer or otherwise dispose of his shares, during the exercise of his functions, and in case of insolvency of the credit union any such withdrawal or transfer or disposal made by him within four months preceding such insolvency shall be null and void, and such member shall remain liable to the creditors of the credit union to the extent of such shares so transferred or disposed of. R.O. 1958, c. 25, s. 52.

Rules governing joint membership accounts

53. (1) Subject to this Ordinance, the method of operation of joint membership accounts shall be set forth from time to time in the standard by-laws governing all credit unions in the Yukon Territory. R.O. 1958, c. 25, s. 53.

MEETINGS

54. (1) The annual meeting shall be held before the end of March at such time as the credit union may determine. Annual and special meetings

(2) Special meetings may be called in the manner provided by the by-laws. R.O. 1958, c. 25, s. 54.

55. (1) No member shall have more than one vote at any meeting, and no member may vote by proxy. R.O. 1958, c. 25, s. 55. Voting

FISCAL YEAR

56. (1) The fiscal year of a credit union shall end on the thirty-first day of December. R.O. 1958, c. 25, s. 56. Fiscal year

OBLIGATIONS OF OFFICERS AND MEMBERS

57. (1) Every person appointed to an office touching the receipt, management or expenditure of money for the purposes of a credit union shall, before entering upon the duties of his office, furnish a fidelity bond in accordance with paragraph 26(1)(g). R.O. 1958, c. 25, s. 57. Security

58. (1) The by-laws of every credit union shall bind the credit union and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in such by-laws a covenant on the part of himself, his heirs, executors and administrators to conform to such by-laws subject to this Ordinance. R.O. 1958, c. 25, s. 58. By-laws binding

59. (1) All moneys payable by a member of a credit union shall be a debt due from him to the credit union and shall be recoverable as such in any court of competent jurisdiction. Debts due by members

(2) The credit union shall have a lien on the shares and deposits of a member for any sum due from him to the credit union and for any loan indorsed by him. R.O. 1958, c. 25, s. 59.

RETURNS

60. (1) Every credit union shall Annual return

(a) within two weeks after each annual meeting send to the Registrar an audited statement of the receipts and expenditures, assets and liabilities of the credit union and such other information as may be required by the Registrar; and

(b) supply gratuitously to every shareholder, on his application, a copy of the last annual return. R.O. 1958, c. 25, s. 60.

Other returns **61.** (1) Every credit union shall furnish the Registrar with such information as may from time to time be required. R.O. 1958, c. 25, s. 61.

Form of return **62.** (1) Every return and other document required for the purposes of this Ordinance shall be made in such form as the Registrar may prescribe. R.O. 1958, c. 25, s. 62.

INSPECTION OF CREDIT UNIONS

Duties of Registrar and credit unions **63.** (1) The affairs of every credit union shall be examined at least annually by or under the direction of the Registrar, and the credit union shall produce all books, documents and other papers required by the person conducting the examination.

(2) Such person may examine any officer of a credit union under oath. R.O. 1958, c. 25, s. 63.

OFFENCES AND PENALTIES

Offences **64.** (1) It shall be an offence against this Ordinance if any credit union

- (a) fails to give any notice, send any return or document, or do or allow to be done any act or thing which the credit union is by this Ordinance required to give, send, do or allow to be done;
- (b) wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Ordinance by the Registrar or any other official or person whose duties require him to obtain the information, or does any act or thing forbidden by this Ordinance; or
- (c) makes a return or wilfully furnishes information in any respect false or insufficient. R.O. 1958, c. 25, s. 64.

Liability of officers and directors **65.** (1) Every offence by a credit union shall be deemed to have been also committed by every officer of the credit union who is bound by the by-laws thereof to fulfil the duties whereof such an offence is a breach or, if there is no such officer, then by each of the directors and members of the credit and supervisory committee, unless such officer, director or member of committee is proved to have been ignorant of or to have attempted to prevent the commission of such offence. R.O. 1958, c. 25, s. 65.

66. (1) No person, firm, corporation or association doing business in the Territory shall use the words "credit union" or "caisse populaire," or any abbreviation or derivative thereof, as part of its corporate or business name unless incorporated by or under the authority of an Act of Parliament of Canada or an Ordinance of the Territory.

Use of words
"credit union"
etc.

(2) Any person, firm, corporation or association contravening this section commits an offence against this Ordinance. R.O. 1958, c. 25, s. 66.

67. (1) Every person, firm, corporation, association or credit union who commits an offence under this Ordinance is, on the complaint of any credit union or any member thereof or of the Registrar, liable on summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 25, s. 67.

Penalty

DISSOLUTION

68. (1) A credit union may be dissolved by consent of three-fourths of its members, shown by their signatures to an instrument of dissolution.

By consent of
members

(2) The instrument of dissolution shall set forth in detail the liabilities and assets of the credit union, the number of members and the nature of their respective interests in the credit union, the claims of creditors, if any, and the provision to be made for their payment, and the intended appropriation or division of the funds or property of the credit union unless the same is stated in the instrument to be left to the award of the Registrar.

(3) A statutory declaration shall be made by the president and secretary that the provisions of this Ordinance have been complied with, and shall be sent to the Registrar with the instrument of dissolution.

(4) The Registrar shall cause a notice of the dissolution to be published, at the expense of the credit union, in the *Yukon Gazette* and in a newspaper circulating in the district in which the registered office of the credit union is situated. R.O. 1958, c. 25, s. 68.

69. (1) Subject to the approval of the Commissioner, the Registrar by order may dissolve a credit union if satisfied that

Dissolution by
Registrar

- (a) the incorporation of the credit union was obtained by fraud or mistake;
- (b) the credit union exists for an illegal purpose;

- (c) the number of members has been reduced to less than ten;
- (d) the credit union is not carrying on business or is not in operation; or
- (e) the credit union has wilfully, after notice by the Registrar, violated any of the provisions of this Ordinance.

(2) The Registrar shall give the credit union not less than two months' notice of proposed dissolution, specifying the reason therefor and stating that, unless cause is shown to the contrary within the said period, the name of the credit union will be struck off the register and the credit union dissolved.

(3) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the credit union, strike the name of the credit union off the register, and in such case he shall publish notice thereof in the *Yukon Gazette*, whereupon the credit union shall be dissolved. R.O. 1958, c. 25, s. 69.

Settlements in
event of dissolu-
tion

70. (1) Where a credit union is dissolved under this Ordinance the credit union shall nevertheless be considered as subsisting and be in all respects subject to the provisions of this Ordinance, so long and so far as any matter relating to the same remains unsettled, to the intent that the credit union may do all things necessary to the winding up of the concerns thereof, and the credit union may sue and be sued in respect of all such matters. R.O. 1958, c. 25, s. 70.

Return

71. (1) Where a credit union is wound up under Part IX of the *Companies Ordinance* the liquidation shall, when the affairs of the credit union have been fully wound up and a general meeting has been called for the purpose of having the liquidators' accounts laid before it, forward to the Registrar a duplicate of the return required to be made to the Registrar of Joint-Stock Companies, and the Registrar shall file such return in his office.

(2) Where the liquidators make default in transmitting the return mentioned in subsection (1), they are severally liable on summary conviction to a fine of twenty dollars for every day during which the default continues. R.O. 1958, c. 25, s. 71.

Disposal of
surplus

72. (1) Where a surplus remains after all debts and liabilities of a credit union have been satisfied in full, the liquidator may, subject to the approval of the Registrar, allow a reasonable rate of dividend, not exceeding five per cent on the paid up capital to the shareholders of record as of the date of the instrument of dissolution.

(2) After payment of a dividend under subsection (1), any surplus remaining shall, subject to the approval of the Registrar, be paid to one or more recognized local organizations or associations that have for their objects activities of a benevolent, charitable or educational nature to promote occupational or community group welfare if such organization or association is in operation in the district and is of service to the group served by the credit union.

(3) A receipt from the secretary or some authorized officer of the organization or association to which any payment is made under subsection (2) shall constitute a discharge to the liquidation of the credit union. R.O. 1958, c. 25, s. 72.

GENERAL

73. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. R.O. 1958, c. 25, s. 73; 1971 (1st) c. 20, s. 7(1). Fees payable to Registrar

74. (1) All fees received by the Registrar under this Ordinance shall be paid by him into and form part of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 25, s. 74. Disposal of fees

75. (1) The Registrar shall upon written request supply a copy of the standard by-laws and prepare such supplementary by-laws as may be required for the regulation, government and management of a proposed credit union. R.O. 1958, c. 25, s. 75. Registrar supplies by-laws upon request

76. (1) Upon the payment of the prescribed fee, any person may inspect in the office of the Registrar the memorandum of association and the supplementary by-laws of any credit union incorporated under this Ordinance. Inspection of documents

(2) A certified copy of the memorandum of association or supplementary by-laws of any credit union incorporated under this Ordinance may be furnished at cost.

(3) Except with the consent of the Registrar, no other document or part thereof relating to any credit union incorporated or registered under this Ordinance shall be available for search. R.O. 1958, c. 25, s. 76.

77. (1) Any five or more credit unions may, in the manner hereinafter mentioned, organize a federation, with or without capital divided into shares, for the furtherance of their common interests and the benefit of their members and, Federation of credit unions

without limiting the generality of the foregoing, for the purpose of

- (a) carrying on, encouraging and assisting educational and advisory work relating to credit unions;
- (b) improving methods of management of credit unions and standardizing their bookkeeping, accounting and other procedure;
- (c) reducing operating costs of credit unions by arranging for group bonding of credit union employees, insuring repayment of loans made by credit unions to their members, and purchasing bookkeeping and other supplies for sale to its members and other credit unions;
- (d) accepting as members credit unions admitted by the directors of the federation;
- (e) encouraging the organization into districts of credit unions that are members and prescribing such by-laws as are necessary for the administration of such districts;
- (f) receiving moneys from its members either as payments on shares or as deposits;
- (g) making loans to credit unions that are members, subject to section 39;
- (h) depositing or investing the savings of members in the manner mentioned in section 17; and
- (i) rendering to its members any other services incidental to its objects.

(2) A memorandum of association, signed in duplicate by one member of each credit union affected who has been appointed by it for the purpose, shall be filed in the office of the Registrar.

(3) The memorandum shall be in such form as the Registrar may require and shall state the name of the federation, the par value of the shares, if any, or the membership fee, if any, the objects of the federation, the place at which its registered office will be situated, the names and addresses of the subscribers to the memorandum and the names of the credit unions which they respectively represent, and shall be accompanied by a copy of the by-laws by which the federation is to be governed and such other documentary evidence as the Registrar may require.

(4) Upon the filing of the memorandum of association and other documents the Registrar may, if satisfied that the registration is economically advisable and that it is otherwise expedient to do so, register the federation and upon registration shall issue a certificate of registration in Form C in

Schedule II and publish a notice of registration in the *Yukon Gazette*.

(5) Upon the issue of a certificate of registration the credit unions mentioned in the memorandum of association and such other credit unions as may thereafter become members of the federation shall thereupon become and be a body corporate under the registered name of the federation, and the provisions of this Ordinance shall in so far as applicable apply *mutatis mutandis* to the federation.

(6) A federation incorporated under this section may pass such by-laws as it deems advisable for its purposes and, without limiting the generality of the foregoing, may pass by-laws providing;

- (a) that the territory in which the federation has members shall be divided into districts and that such number of directors of the federation as may be designated in the by-law shall be elected by delegates representing the members in such districts in such manner as to provide representation for each district on the board of directors and that the other directors in such number as may be designated in the by-law shall be elected by the delegates to represent the members at large;
- (b) that if a vacancy occurs in the board of directors the remaining directors may appoint a member of a member credit union to fill the vacancy until the next annual meeting of the federation when a successor shall be appointed for the unexpired term, if any; and
- (c) the manner in which the retirement of directors may be ordered at meetings of delegates.

(7) No by-law shall become operative until approved by the Registrar. R.O. 1958, c. 25, s. 77.

SCHEDULE I

(Section 10(1))

MATTERS TO BE PROVIDED FOR IN BY-LAWS

1. Where registered office will be situated.
2. Terms governing admission to and termination of membership.
3. Provisions as to withdrawal, redemption, forfeiture and transfer of shares.
4. Provisions as to deposits.
5. Provisions respecting applications for and granting of loans.
6. Provisions for the appointment and removal of directors, managers, members of the Supervisory Committee and Credit Committee and other officers and a statement of their respective duties and powers.
7. Provisions as to borrowing.
8. Rules for convening and holding general meetings, and right of voting.
9. Provisions for audit of accounts.
10. Provisions for application of profits.
11. Use and custody of Seal.
12. Method of altering by-laws.

R.O. 1958, c. 25, First Sched.

SCHEDULE II

FORM A

(Section 4)

Credit Union Ordinance

MEMORANDUM OF ASSOCIATION

1. The undersigned are desirous of being incorporated under the provisions of the *Credit Union Ordinance*.
2. The corporate name of the credit union is to be.....
..... (*insert name proposed*) Credit Union Limited.
3. The place of business of the proposed credit union, to be the registered office thereof, is at.....
4. The capital of the credit union shall be unlimited in amount and shall be divided into shares of five dollars each.
5. The names and addresses of the undersigned and the number of shares for which each has subscribed are as follows:

Name	Address	Number of Shares subscribed
------	---------	--------------------------------

6.will be the provisional secretary of the proposed credit union.

Dated at.....in the Yukon Territory
this.....day of....., 19.....

Signature of witness:

Signature of applicants:

R.O. 1958, c. 25, Second Sched.

FORM B

(Section 6)

Credit Union Ordinance

CERTIFICATE OF INCORPORATION

The.....Credit Union Limited, having filed a duly executed memorandum of association, is incorporated under the *Credit Union Ordinance*, thisday of....., 19.....

In testimony whereof I,..... have caused my Seal of Office to be hereunto affixed on the date first above written.

*Registrar of Credit Unions
for the Yukon Territory*



FORM C

(Section 77 (4))

Credit Union Ordinance

CERTIFICATE OF REGISTRATION

The.....having filed the required documentary evidence, is registered under the *Credit Union Ordinance*, this.....day of....., 19.....

In testimony whereof I,..... have caused my Seal of Office to be hereunto affixed on the date first above written.

*Registrar of Credit Unions
for the Yukon Territory*

R.O. 1958, c. 25, Second Sched.

CHAPTER C-22

CREDITORS' RELIEF ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Creditors' Relief Ordinance*. R.O. 1958, c. 26, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance, "sheriff" includes duly appointed bailiffs, coroners and any person discharging the duties of sheriff in the particular case for the time being. R.O. 1958, c. 26, s. 2. Definition of "sheriff"

PRIORITIES ABOLISHED

3. (1) Subject to the provisions of this Ordinance there is no priority among execution creditors. R.O. 1958, c. 26, s. 3. No priorities

DISTRIBUTION OF MONEYS LEVIED

4. (1) When a sheriff levies money upon an execution against the property of a debtor, he shall forthwith enter in a book to be kept in his office, a note or memorandum in a form approved by the Commissioner, the date and the amount of each levy and the date upon which the entry was made and the book shall be open to public inspection, without charge, during office hours. R.O. 1958, c. 26, s. 4. Sheriff's record of levy

5. (1) Moneys realized by the sheriff as the result of attachment of personal property shall be distributed under the provisions of this Ordinance, and shall be deemed to be moneys levied under execution. R.O. 1958, c. 26, s. 5. Attachment proceeds distributable

6. (1) Subject to section 9, the money levied by a sheriff upon execution against the property of a debtor shall at the expiration of two months from the levy, unless otherwise ordered by a judge, be distributed rateably among all execution creditors and other creditors whose executions or certificates given under this Ordinance were in the sheriff's hands at the time of the levy, or who have delivered executions or certificates to the sheriff within the said two months or within such further time as may be ordered by a judge; but where money is realized by sale of land for which a certificate Distribution

of title has been granted under the *Land Titles Act*, the period of two months shall be computed from the date of confirmation of the sheriff's sale under the Act. R.O. 1958, c. 26, s. 6.

Distribution of subsequent levies

7. (1) Where the sheriff, subsequently to the entry of the note or memorandum but within two months thereof, levies a further amount upon the property of the debtor, the same shall be dealt with as if such amount had been levied prior to the entry of such note or memorandum, pursuant to section 4.

(2) Where, after the two months, a further amount is levied a new note or memorandum shall be entered and the distribution to be made of the amount so levied, and of any further amount levied within two months of such last mentioned entry, shall be governed by the entry thereof in accordance with section 6 and subsection (1) of this section, and so on from time to time but a judge may, on application made *ex parte* or upon notice, as the judge may determine, delay any of such distributions or any part thereof to give reasonable time for obtaining judgment or a certificate in Form A of Schedule I, and may fix a date for such distribution. R.O. 1958, c. 26, s. 7.

Equality of all executions

8. (1) In the distribution of moneys under this Ordinance creditors who have executions against goods and lands, or against goods only or lands only, shall be entitled to share rateably with all others any moneys realized under execution either against goods or lands or against both. R.O. 1958, c. 26, s. 8.

Costs made preference

9. (1) When the amount levied by the sheriff is not sufficient to pay the executions and certificates with costs in full, the moneys shall be applied to the payment rateably of the debts and costs after retaining the sheriff's fees and after payment in full of the taxed costs of execution, or of obtaining and delivering a certificate and extra costs of seizure and sale incurred by the creditor whose writ of execution or certificate was placed in the sheriff's hands first among those under whose executions or certificates the levy was made. R.O. 1958, c. 26, s. 9.

What creditors share in distribution

10. (1) No creditor is entitled to share in the distribution of money levied from the property of a debtor unless by the delivery of a writ of execution, or otherwise under this Ordinance, he has established a claim against the debtor either alone or jointly with some other creditor. R.O. 1958, c. 26, s. 10.

INTERPLEADER PROCEEDINGS

11. (1) Where proceedings are taken by the sheriff for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata*, in proportion to the amount of their executions or certificates, to the expense of contesting any adverse claim, are entitled to share in any benefit that may be derived from the contestation of such claims so far as may be necessary to satisfy their executions or certificates. R.O. 1958, c. 26, s. 11.

Certain creditors only entitled to share

12. (1) A judge may direct that one creditor shall bear the carriage of the interpleader proceedings on behalf of all creditors interested. R.O. 1958, c. 26, s. 12.

Carriage of proceedings

13. (1) The costs of interpleader proceedings shall, as between solicitor and client, be a first charge upon the moneys or goods that may be found by the proceedings to be applicable upon the executions or certificates. R.O. 1958, c. 26, s. 13.

Costs

CLAIMS FOR WAGES

14. (1) All persons employed by an execution debtor at the time of the seizure under which money has been levied upon any execution and of which a note of the levy has been made as prescribed in section 4, or within one month before such seizure, who, prior to the expiration of the time fixed for the distribution of their claims for wages or salary with the particulars thereof proved by affidavit in Form B of Schedule I, are, subject to this Ordinance, entitled to be paid out of the money so levied the amount of wages or salary due to them respectively by the execution debtor, not exceeding wages or salary for three months, in priority to the claims of the other creditors of the execution debtor, and are entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims; such wages or salary shall be for arrears only then owing or accrued, and not for any unearned portion.

Employees have priority

(2) On receipt of any claim mentioned in subsection (1) the sheriff shall forthwith give notice thereof in writing, with particulars, to the execution debtor, either personally or by registered mail, and the sheriff has the same right to interplead in respect thereof as he would have in case of any adverse claim to moneys levied by him under execution.

(3) This section applies to wages or salary, whether the employment in respect of which the same may be payable is by the hour, day, week, month or year. R.O. 1958, c. 26, s. 14.

EXEMPTIONS

Seizure and sale

15. (1) Where money levied is the proceeds of the sale of an article under execution upon a judgment rendered in an action for the price of the article, and such article would otherwise be exempt from seizure under the *Exemptions Ordinance*, such money shall not be subject to distribution under the terms of section 6 or 7, but shall be applied upon the execution under which it was levied.

(2) In case the amount levied as mentioned in subsection (1) is more than sufficient to pay the execution debt with costs in full, the balance in the sheriff's hands shall be paid over to the execution debtor.

(3) In case such amount is insufficient to pay the execution debt with costs in full, the execution creditor shall be entitled to share in any money of the execution debtor which may be in the sheriff's hands for distribution under the terms of section 6 or 7 to the extent of the unpaid balance. R.O. 1958, c. 26, s. 15.

CERTIFICATE OF PROOF OF CLAIM PROCEDURE

Proceedings by
other creditors
where execution
unsatisfied

16. (1) When the sheriff has seized goods and chattels under a writ of execution, or a debtor allows an execution against his lands to remain unsatisfied for nine months after it has been placed in the sheriff's hands, the creditors or claimants in respect of such overdue debts may take the following proceedings:

- (a) an affidavit in Form C of Schedule I of the debt and the particulars thereof may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts;
- (b) the claimant shall serve on the debtor one of the duplicates and a notice in Form D of Schedule I:
- (c) where the affidavit and notice are to be served out of the Territory, a judge shall, by order fix the time after which the next step may be taken by the claimant as hereinafter provided;
- (d) where no notice is given under paragraph (g), the affidavit and notice may be personally served upon him, if in the Territory, by forwarding to him by registered mail a duplicate original of the affidavit and a true copy of the notice, and such service shall be

deemed sufficient if a receipt from the postmaster for the letter containing such original copy, and a post office receipt for such letter, purporting to be signed by the debtor, are produced as exhibits to the affidavit of service and the affidavit and notice shall be deemed to be served on the day of the date of the receipt which purports to be signed by the debtor, but notwithstanding anything herein contained, a judge may order substitutional or other service, or may direct some act to be done which shall be deemed sufficient service ;

- (e) the claimant shall file with the Clerk of the Court one of the duplicate affidavits of claim and a copy of the notice with an affidavit of service thereof in Form E of Schedule I :
- (f) prior to or simultaneously with the filing with the Clerk of the Court of the affidavit there shall be filed with him a certificate of the sheriff or an affidavit showing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Ordinance ;
- (g) an execution debtor may give notice in writing to the sheriff that any claims may be served upon a solicitor in the Territory whose name and address shall be given, or by mailing the same to an address stated in the notice ;
- (h) the sheriff shall thereupon enter the notice in a book to be kept by him for the purpose, and, so long as any execution that was in the sheriff's hand at the time the notice was given remains in his hand at the time the notice was given remains in his hands, shall repeat such entry immediately below any entry made in respect of the execution, unless the notice is revoked in writing, in which case the entry thereof shall be marked "revoked" ;
- (i) so long as the notice is not revoked the affidavit of claim and notice may, where a solicitor is named, be served upon an execution debtor by serving the same upon the solicitor, or if mailing is required then by mailing the same by registered post to the address in the notice given by the execution debtor ; and
- (j) where the notice served on a debtor does not state some place within three miles of the office of the Clerk of the Court at which service may be made upon the claimant, or does not give the name and address of some solicitor in the Territory who may be served on the claimant's behalf, service of any notice, paper or document may be made upon the claimant by filing the same in the office of the Clerk of the Court and in

such case shall be deemed good service. R.O. 1958, c. 26, s. 16.

ISSUE, EFFECT AND DURATION OF CERTIFICATE

Certificate
granted where
claim undisputed

17. (1) When the claim is not contested as provided in this Ordinance, the Clerk of the Court, after ten days from the day of service, or after the time mentioned in the order provided for by paragraph 16(1)(c), on the application of the claimant and his filing proof of due service of the affidavit and notice, or where the claim is contested, upon the determination of the dispute in favour of the claimant either in whole or in part, shall deliver to the creditor a certificate in Form A: and, where the claim is disputed as to a part only, the claimant may elect by a writing filed with the Clerk to abandon such part and shall be entitled to a certificate as to the residue. R.O. 1958, c. 26, s. 17.

Effect of
certificate

18. (1) Upon delivery of the certificate to the sheriff, the claimant shall be deemed to be an execution creditor within the meaning of this Ordinance and is entitled to share in any distribution as if he had delivered an execution to the sheriff, and the certificate binds the lands and goods of the debtor in the same manner and to the same extent as an execution, subject to the debt being afterwards disputed by a creditor as hereinafter provided.

(2) For the purpose of interpleader proceedings the certificate shall be deemed to be an execution.

(3) Where the certificate is obtained by a solicitor his name and address shall be endorsed thereon; and, if obtained by the claimant in person, there shall be endorsed thereon a statement of some place within three miles of the office of the Clerk of the Court, at which service may be made upon him, and in default thereof service of any notice, paper or document may be made upon the claimant by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

(4) On receiving the certificate the sheriff shall make a further seizure of the property of the debtor to the amount of the debt so claimed, and the sheriff's fees; and so from time to time in case further certificates are received. R.O. 1958, c. 26, s. 18.

Duration of
certificate

19. (1) A certificate shall remain in force for six years from the date thereof but may from time to time be renewed in the same manner as an execution.

(2) Notwithstanding the expiry of an execution or certificate before the termination of two months from the date of entry of a note or memorandum under section 4, the execution or certificate, as to any money levied during such two months, shall be deemed to be in full force and effect.

(3) Notwithstanding the expiry of a certificate, it may be renewed in the same manner as if it had not expired, and when renewed it shall, subject to the rights of third parties accrued since the date of expiry, be of the same force and effect as if it had been renewed prior to that date. R.O. 1958, c. 26, s. 19.

CONTESTATION OF CLAIM

20. (1) The claim may be contested by the debtor or by any creditor of the debtor. Procedure

(2) Where the debtor contests the claim he shall file with the Clerk of the Court an affidavit stating that he has a good defence to the claim or to a specified part of it on the merits, but a judge may dispense with the affidavit on terms or otherwise.

(3) The debtor shall file his affidavit within ten days after service upon him of the affidavit of claim and the notice, or within the time mentioned in the order provided for by paragraph 16(1)(c), as the case may be, or within such further time as a judge may allow.

(4) Where the contest is by a creditor he shall file with the Clerk of the Court an affidavit to the effect that he has reason to believe that the debt claimed is not actually and in good faith due from the debtor to the claimant; but a judge may dispense with the affidavit on terms or otherwise.

(5) Notice of contest, whether by the debtor or by a creditor, together with a copy of the affidavit, if any, shall be served upon the claimant within five days after filing the affidavit, or after the order of the judge if the affidavit is dispensed with.

(6) The affidavit by a creditor may be filed and a certified copy thereof delivered to the sheriff at any time before distribution is made, and the sheriff shall forthwith give notice of the receipt of such certified copy to the claimant.

(7) The affidavit of the debtor or other contestant shall have endorsed thereon a statement of some place within three miles of the office of the Clerk of the Court at which service may be made upon him, or the address of a solicitor in the Territory who may be served on his behalf, and in default

thereof service of any notice, paper or document may be made upon the debtor or contestant by filing the same in the office of the Clerk of the Court.

(8) Where the address of a solicitor given for service is not within three miles of the Clerk's office, service may be made upon him by mailing papers by registered post to him at the address so given.

(9) The claimant whose claim is contested may apply to a judge for an order allowing his claim and determining the amount; and if he does not make such application within eight days after receiving notice of the contest or within such further time as the judge may allow, which extension may be granted either before or after the expiration of the time limited, he shall be taken to have abandoned his claim.

(10) Where the contestant is a creditor and there is reason to believe that the contest is not being carried on in good faith any other creditor may apply for an order permitting him to intervene in the contest. R.O. 1958, c. 26, s. 20.

Distribution in
case of contesta-
tion

21. (1) Where a claim is contested by a creditor after a certificate has been placed in the sheriff's hands the sheriff, unless a judge otherwise orders, shall levy as if such contest had not been made, and shall until the determination of the contest retain in a bank the amount that would be apportionable to the claim if valid, and shall as soon after the expiry of the two months as is practicable distribute the residue of the money made among those entitled. R.O. 1958. c. 26. s. 21.

TRIAL OF CONTESTED CLAIMS

Procedure

22. (1) A judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried for the determination thereof and may make such order as to the costs of the proceedings as he deems just. R.O. 1958. c. 26. s. 22.

Production and
examination

23. (1) The same proceedings may be had for the production of documents and for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings may also be taken before the application to a judge and as a foundation therefor. R.O. 1958, c. 26, s. 23.

CLERK TO KEEP RECORDS

Particulars to be
recorded

24. (1) The Clerk of the Court shall keep a book in which before giving a certificate or issuing an execution for a claim,

he shall, with reference to every claim in respect of which he gives a certificate or issues an execution, enter the following particulars:

- (a) the name and address of the claimant, and of the debtor;
- (b) the date of the entry;
- (c) the amount of the debt, exclusive of costs;
- (d) the amount of costs; and
- (e) where the proceedings have been set aside, that fact, and shortly the reason therefor.

(2) The entry shall, subject to this Ordinance, have the effect of and be a final judgment of the Court for the debt and costs.

(3) The Clerk shall index the entries in a book alphabetically under the names of the debtors.

(4) Where the original papers are lost or destroyed, a copy of the entry shall be evidence of the matters therein set forth. R.O. 1958, c. 26, s. 24.

PAYMENTS WITHOUT SEIZURE AND FUNDS IN COURT

25. (1) Where the debtor, without any seizure by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, no note or memorandum shall be entered as required by section 4 and no further proceedings shall be taken under this Ordinance against the debtor by virtue of the executions having been in the sheriff's hands.

Application of
payments by
debtor

(2) Except as provided in subsection (1), after an execution has been filed with the sheriff or a certificate has been delivered to him, the withdrawal or expiry of the execution upon which the proceedings are founded or any stay upon the writ or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the writ, shall not affect the proceedings to be taken under this Ordinance, and, except so far as the action taken in regard to the writ may affect the amount to be levied, the sheriff shall proceed and levy upon the goods or lands of the debtor or both as he would have proceeded had the writ remained in his hands in full force to be executed, and may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*.

(3) Where a debtor, without any seizure by the sheriff, pays to the sheriff part of the amount owing in respect of an execution or certificate in the sheriff's hands and there is at

the time no other execution or certificate in the sheriff's hands the sheriff shall apply the same on the execution or certificate so in his hands and sections 4 and 6 shall not apply to the money so received by the sheriff. R.O. 1958, c. 26, s. 25.

Funds in court
belonging to
execution debtor

26. (1) Where there is in any court a fund belonging to an execution debtor or to which he is entitled, the same or a sufficient part thereof to pay the executions and certificates in the sheriff's hands may, on application of the sheriff or any party interested, be paid over to the sheriff and shall be deemed to be money levied under execution within the meaning of this Ordinance. R.O. 1958, c. 26, s. 26.

SCHEME OF DISTRIBUTION AND CONTEST

Distribution
where amount
levied insuffi-
cient to meet all
claims

27. (1) Where, at the time for distribution, the money is insufficient to pay all claims in full, the sheriff shall first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution, with the amount due to each for principal, interest and costs.

(2) The list shall be so arranged as to show the amount payable to each creditor and the total amount to be distributed; and the sheriff shall deliver, or send by registered post to the debtor and to each creditor or his solicitor, a copy of the list.

(3) Where within ten days after all the copies have been delivered or posted, or within such further time as a judge may allow, no objection is made as provided by this Ordinance, the sheriff shall make distribution forthwith pursuant to such list.

(4) Where objection is made the sheriff shall forthwith distribute rateably so much of the money, and among such persons, as will not interfere with the effect of the objection in case the same should be allowed.

(5) Any person affected by the proposed scheme of distribution may contest the same by giving, within the time mentioned in subsection (3), a notice in writing to the sheriff, stating his objection to the scheme and the grounds thereof.

(6) The contestant shall, within ten days thereafter, apply to a judge for an order adjudicating upon the matter in dispute, otherwise the contest shall be taken to be abandoned.

(7) The contestant shall, within the time mentioned in subsection (6), obtain from a judge an appointment for hearing and determining the matter in dispute.

(8) A copy of the appointment and a notice in writing in Form F of Schedule I of the objections, stating the grounds thereof, shall be served by the contestant upon the debtor unless he is the contestant, and upon the creditors of such of them as a judge may direct.

(9) A judge may determine any question in dispute in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury for the determination thereof, and may make such order as to the costs of the proceedings as he deems just.

(10) Where a claimant is held to be not entitled, or to be entitled to part only of his claim, the money retained pending the contest, or the portion as to which the claimant failed, shall be distributed among the creditors who would have been entitled thereto, as the same would have been distributed had the claim in respect thereof not been made. R.O. 1958, c. 26, s. 27.

28. (1) Where several creditors are interested in a contest, either for or against the same, a judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as he deems just, and shall direct by whom and in what proportions any costs incurred in the contest or in any proceedings thereunder shall be paid, and whether any and what costs shall be paid out of the money levied. R.O. 1958, c. 26, s. 28.

Direction by judge to avoid unnecessary parties and trials

PROVISIONS AFFECTING SHERIFF

29. (1) Where money is to be distributed under this Ordinance the sheriff is not entitled to poundage as upon separate executions or certificates but only upon the net proceeds distributed by him and at the same rate as if the whole amount had been payable under one writ. R.O. 1958, c. 26, s. 29.

Sheriff entitled to single poundage only

30. (1) When money is made under an execution, the same shall be taken for the purposes of the sheriff's return and otherwise to be made upon all the executions and certificates entitled to the benefits thereof, and the sheriff shall, upon payment being made to the person entitled upon such execution or certificate, endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party who issued the writ or by direction of a judge, return the writ until the same has been fully satisfied, or unless the same has expired by effluxion of time in which

Sheriff's return after levy

case the sheriff shall make a formal return of the amount paid thereon. R.O. 1958, c. 26, s. 30.

Compelling
payment by
sheriff

31. (1) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to an execution or other claim as can be taken to compel the return by the sheriff of a writ or execution. R.O. 1958, c. 26, s. 31.

Sheriff's record

32. (1) The sheriff shall, pending the distribution of the moneys levied keep in the book mentioned in section 4 a statement showing in respect of any debtor on whose property money has been levied the following particulars:

- (a) the amount levied or received and the dates of levy or receipt; and
- (b) each execution or certificate in his hands and the amount thereof;

and such statement shall be amended from time to time as additional amounts are levied or received or further executions or certificates are received. R.O. 1958, c. 26, s. 32.

Sheriff to give
information

33. (1) The sheriff shall at all times, without fee, answer any reasonable question that he may be asked orally with respect to the estate of the debtor by a creditor or any one acting on behalf of a creditor, and shall aid him in obtaining full information as to the value of the estate and the probable dividend to be realized therefrom, or any other information in connection with the estate that the creditor may reasonably desire to obtain. R.O. 1958, c. 26, s. 33.

Undisposable
money to be
placed in bank

34. (1) Where a sheriff has money in his hands that by reason of this Ordinance or otherwise he cannot immediately pay over, he shall deposit the money in a bank to be designated by the Commissioner and the deposit shall be made in the name of the sheriff in trust. R.O. 1958, c. 26, s. 34.

GENERAL PROVISIONS

One seizure
sufficient

35. (1) One seizure by the sheriff of the goods and lands of the debtor shall be deemed sufficient and shall be deemed a seizure on behalf of all creditors sharing under such seizure as provided in this Ordinance. R.O. 1958, c. 26, s. 35.

Direction by
judge to sheriff
where claim is
disputed

36. (1) A judge may direct the sheriff to levy for an amount sufficient to cover a claim that is in dispute or part thereof, or, if it appears to him that it is improbable that the debtor has other sufficient property, he may direct the sheriff to retain in his hands during the contest the share that, if the

claim is sustained, will be apportionable to it, or a part thereof.

(2) An order to levy under this section confers on the sheriff the same authority as he would have under an execution. R.O. 1958, c. 26, s. 36.

37. (1) The decision of a judge binds the debtor and all his creditors, unless it appears that the decision was obtained by fraud or collusion. R.O. 1958, c. 26, s. 37. Decisions binding on all creditors

38. (1) Upon any proceedings before a judge the evidence may be taken orally or by affidavit as the judge may direct. R.O. 1958, c. 26, s. 38. Evidence on proceeding before judge

39. (1) No proceedings under this Ordinance shall be void for any defect of form, and the Rules of Court for amending or otherwise curing irregularities or defects that may from time to time be in force apply to this Ordinance, and any proceedings wrongfully taken under this Ordinance may be set aside by a judge with or without costs as he may think fit. R.O. 1958, c. 26, s. 39. Irregularities not to void proceedings

40. (1) The Commissioner may prescribe the fees and costs to be payable for all services under this Ordinance. R.O. 1958, c. 26, s. 40. Fees and costs

Creditors' Relief
SCHEDULE I

FORM A

CERTIFICATE OF PROOF OF CLAIM

A.B. of _____ in the Yukon Territory, claimant,
and C.D. of _____ in the Yukon Territory,
debtor.

I, G.H., Clerk of the Court for the Yukon Territory, do hereby certify:

1. That the above named claimant did on the day of _____, 19____, file with me a claim against the above named debtor, for the sum of \$ _____ together with an affidavit of personal service thereof (*or as the case may require*) and of the notice required by the *Creditors Relief Ordinance*, upon the said debtor, and that it hereby appears that such service was made on the _____ day of _____, 19____

2. And I further certify that the debtor has not contested the said claim and that claimant is entitled to the amount thereof and to the further sum of \$ _____ for costs.

(Or)

2. And I further certify that the debtor has only contested the sum of \$ _____ part of the said claim (*as the case may be*), and that the claimant having abandoned such part is entitled to the residue of his claim being the sum of \$ _____, and the further sum of \$ _____ for costs.

(*Or, when the claim is contested in whole or in part*):

2. That the claim has been allowed by the Court at the sum of \$ _____ with \$ _____ for costs.

G.H.,
Clerk

R.O. 1958, c. 26, Sched.

FORM B

AFFIDAVIT OF CLAIM FOR WAGES

Between A.B. of in the Yukon Territory,
claimant for wages and C.D. of in the
Yukon Territory, execution debtor.

I, A.B. of in the Yukon Territory
(occupation) make oath and say:

1. That I am the above named claimant and was in the
employment of the above named execution debtor at the time
of the sheriff's seizure herein (or was in the employ of the
said execution debtor up to the day of
, 19).

2. I claim priority over the execution creditors to the extent
of \$ being the amount the said execution debtor
is justly and truly indebted to me for wages (or salary) earned
by me between the day of
and the day of my said employment being at
the rate of \$ per day (week or month).

3. In addition to the claim set out in paragraph 2 hereof,
I claim to share pro rata with the execution creditors for the
sum of \$ being the amount the above named
execution debtor is justly and truly indebted to me for wages
(or salary) earned between the day of
during such period being at the rate of \$ per day
(week or month).

Sworn before me at
in the Yukon Territory this } A.B.
day of 19 . }

.....
A Commissioner, etc.

R.O. 1958, c. 26, Sched.

FORM C

AFFIDAVIT OF CLAIM

A.B of in the Yukon Territory,
claimant, and C.D. of in the Yukon
Territory, debtor.

I, A.B., of in the Yukon Territory,
(occupation), make oath and say:

1. I am the above named claimant (or the duly authorized
agent of the claimant in this behalf) and have a personal
knowledge of the matter hereinafter deposed to.

2. The above named debtor is justly and truly indebted to
me (or to the above named claimant) in the sum of \$
for (here state shortly the nature and particulars of the claim).

Sworn before me at }
in the Yukon Territory this } A.B.
day of 19 . }

A Commissioner, etc.
(or as the case may be)

FORM D

NOTICE TO BE SERVED WITH CLAIM

A.B. of in the Yukon Territory,
claimant, and C.D. of in the Yukon
Territory, debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the Clerk
of the Court of the Yukon Territory, the original affidavit of
claim of which a duplicate is served herewith, and that this
proceeding is taken by reason of there being in the hands
of the sheriff an execution against your property, and that the
claimant intends to call on the sheriff to levy the amount of
the said debt from your property under the authority of the
Creditors Relief Ordinance.

R.O. 1958, c. 26, Sched.

And further take notice that if you desire to contest the said claim, or any part thereof, you must, within ten days⁽¹⁾ after the service of the notice upon you, file with the said Clerk of the Court an affidavit stating that you have a good defence to the said claim on the merits, or that you have such defence to a specified part of the claim. If no such affidavit is filed the claim will be treated as admitted by you. If the affidavit is filed contesting the claim as to part only such claim may be so treated as to the part not contested.

You are further hereby notified that unless you endorse upon such affidavit filed by you a statement of some place within three miles of the said Clerk's office at which service may be made upon you, or the address of some solicitor in the Territory who may be served on your behalf, service may be made upon you of any notice, paper or document, by filing the same in the office of the Clerk of the Court and in such case shall be deemed good service.

Dated the _____ day of _____, 19____

.....
Claimant

⁽¹⁾Note:—If further time is given by the Court the notice should be varied accordingly.

R.O. 1958, c. 26, Sched.

FORM E

AFFIDAVIT OF SERVICE OF CLAIM

A. B., claimant, and C.D., debtor.

I, G.H., of _____ in the Yukon Territory, (*occupation*), make oath and say:

That I did on the _____ day of _____ 19____, personally service C.D., the above named debtor with an original affidavit identical with the annexed affidavit marked exhibit A by delivering on the day last aforesaid at _____

_____ ; (*or as the case may be*) and that there was at the time of such service attached to (or endorsed upon) the said affidavit so served a true copy of the notice

addressed to the debtor; now attached to (or endorsed upon) the said annexed affidavit and marked exhibit B.

Or

1. That I did on the _____ day of _____, 19____, serve the above named debtor with an original affidavit identical with the affidavit hereunto annexed and marked exhibit A having enclosed such original in an envelope addressed to the debtor at _____ and posted the same by registered mail in the post office at _____

2. Hereunto annexed and marked exhibit A is the receipt from the postmaster at _____ for such registered letter; and hereunto annexed and marked exhibit C is the receipt of the debtor for such registered letter.

R.O. 1958, c. 26, Sched.

FORM F

NOTICE OF CONTEST OF SCHEME OF DISTRIBUTION

A. B., claimant, and C.D., debtor.
To C.D., debtor, and F.G. and M.N., claimants.

Take notice that I contest the scheme of distribution prepared by the sheriff of the Yukon Territory in respect of the claims of you the said F.G. and M.N., on the following ground (*state distinctly the ground*), and a copy of the judge's appointment to adjudicate upon the matter is served herewith.

Dated the _____ day of _____, 19____.

X.Y.
Contestant

R.O. 1958, c. 26, Sched.

CHAPTER C-23

CURFEW ORDINANCE

1. This Ordinance may be cited as the *Curfew Ordinance*. Short title
R.O. 1958, c. 27, s. 1.

2. (1) In this Ordinance Definitions

“community” means a community of not less than one hundred inhabitants residing in close proximity to each other ; “community”

“curfew district” means a curfew district established pursuant to section 3. R.O. 1958, c. 27, s. 2. “curfew district”

3. (1) Upon receiving a petition signed by at least four-fifths of the parents in a community other than a municipality, the Commissioner may establish the community as a curfew district, defining the limits thereof and assigning a name thereto. R.O. 1958, c. 27, s. 3. Establishment of curfew districts

4. (1) No child shall, without reasonable excuse, be on any street or road or in a public place within a curfew district during night-time unless accompanied by a parent or guardian or by an adult duly authorized in writing by the parent or guardian. R.O. 1958, c. 27, s. 4 ; 1963 (2nd) c. 10, s. 1. Child in curfew district not to be on street during night-time unless accompanied

5. (1) The Commissioner may make regulations Regulations

- (a) prescribing the age at which a boy or girl shall be deemed to be a child for the purposes of this Ordinance ;
- (b) prescribing the hours that shall be deemed to be night-time for the purposes of this Ordinance ;
- (c) prescribing that a bell, whistle or siren shall be rung or sounded as a warning at or near the time appointed for the commencement of night-time ; and
- (d) prescribing such other matters as may be deemed advisable to carry out the purposes of this Ordinance. R.O. 1958, c. 27, s. 5.

6. (1) A constable or peace officer who finds a child violating this Ordinance may warn him to go home ; and if after the warning the child continues to violate this Ordinance any Children on street in contravention

constable or peace officer may take the child to its home.
R.O. 1958, c. 27, s. 6.

Penalty may be
imposed on
parent

7. (1) A parent or guardian who permits his child habitually to violate this Ordinance commits an offence and is liable upon summary conviction for a first offence, to a fine not exceeding five dollars and for each subsequent offence, to a fine not exceeding ten dollars. R.O. 1958, c. 27, s. 7.

CHAPTER D-1

DEFAMATION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Defamation Ordinance*. R.O. 1958, c. 28, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“broadcasting” means the dissemination of any form of radioelectric communication, including radiotelegraph, radiotelephone and the wireless transmission of writing, signs, signals, pictures and sounds of all kinds by means of Hertzian waves; “broadcasting”

“defamation” means libel or slander; “defamation”

“newspaper” means a paper containing news, intelligence, occurrences, pictures or illustrations, or remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding thirty-six days between the publication of any two of such papers, parts or numbers; “newspaper”

“public meeting” means a meeting *bona fide* and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern, whether admission thereto is general or restricted. R.O. 1958, c. 28, s. 2. “public meeting”

ACTIONS FOR DEFAMATION

3. (1) An action lies for defamation and may be brought without alleging or proving special damage. R.O. 1958, c. 28, s. 3. Defamation is actionable *per se*

4. (1) In an action for defamation the plaintiff may allege that the matter complained of was used in a defamatory sense, specifying the defamatory sense without alleging how the matter was used in that sense, and the pleading shall be put in issue by the denial of the alleged defamation; and, where the matters set forth, with or without the alleged meaning, show a cause of action, the pleading is sufficient. R.O. 1958, c. 28, s. 4. Allegations of plaintiff

Apology in mitigation of damages

5. (1) In an action for defamation in which the defendant has pleaded only a denial of the alleged defamation or has suffered judgment by default or judgment has been given against him on motion for judgment on the pleadings, he may give evidence, in mitigation of damage, that he made or offered a written or printed apology to the plaintiff for the defamation before the commencement of the action, or, if the action was commenced before there was an opportunity of making or offering the apology, that he did so as soon afterwards as he had an opportunity. R.O. 1958, c. 28, s.5.

Payment into court by way of amends

6. (1) The defendant may pay into court, with his defence, a sum of money by way of amends for the injury sustained by the publication of the defamatory matter, with or without a denial of liability, and the payment has the same effect as payment into court in other cases. R.O. 1958, c. 28, s. 6.

General or special verdict at jury trial

7. (1) Where an action for defamation is tried with a jury, the jury may give a general verdict upon the whole matter in issue in the action, and shall not be required or directed to find for the plaintiff merely on proof of publication by the defendant of the alleged defamation and of the sense ascribed to it in the action; but the presiding judge shall, according to his discretion, give his opinion and directions to the jury on the matter in issue as in other cases; and the jury may on such issue find a special verdict, if they think fit so to do, and the proceedings after verdict, whether general or special, shall be the same as in other cases.

Trial by judge

(2) Where an action for defamation is tried by a judge without jury, the judge may make such finding of a general or special nature as he sees fit. R.O. 1958, c. 28, c. 7.

Consolidation of actions

8. (1) Upon an application by two or more defendants in two or more actions brought by the same person for the same or substantially the same defamation, a judge may make an order for the consolidation of the actions so that they shall be tried together.

Joining new defendants

(2) Where an order has been made under subsection (1), and before the trial of the actions, the defendants in any new actions instituted in respect of any such defamation are also entitled to be joined in a common action upon a joint application by the new defendants and the defendants in the actions already consolidated. R.O. 1958, c. 28, s. 8.

Assessment and apportionment of damages and costs in consolidated action

9. (1) In a consolidated action under section 8, the jury or a judge, as the case may be, shall assess the whole amount of

the damages, if any, in one sum, but a separate verdict or finding shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately.

(2) Where the jury or a judge, as the case may be, makes a verdict or finding against the defendants in more than one of the actions so consolidated, the amount of the damages shall be apportioned between and against the defendants; and, where the plaintiff is awarded the costs of the action, the judge shall make such order as he deems just for the apportionment of the costs between and against the defendants.
R.O. 1958, c. 28, s. 9.

PRIVILEGED PUBLICATIONS

10. (1) A fair and accurate report, published in a newspaper or by broadcasting, of

Certain reports and other publications privileged

- (a) a public meeting,
- (b) proceedings in the Senate or House of Commons of Canada or the legislating body of a province of Canada or a committee of any such body, except where neither members of the public nor reporters are admitted,
- (c) a meeting of commissioners authorized to act by or pursuant to a statute or other lawful authority of the Government of Canada or of any province of Canada, or
- (d) a meeting of any board or local authority formed or constituted under any Act of the Parliament of Canada or under any Ordinance or under any Act of a province of Canada, or of a committee appointed by any such board or local authority,

is privileged, unless it is proved that the publication was made maliciously.

(2) The publication in a newspaper or by broadcasting at the request of any department, bureau or office or public officer of the Territory, Council of a municipality, Government of Canada or Government of a province of Canada, of a report, bulletin, notice or other document issued for the information of the public is privileged, unless it is proved that the publication was made maliciously.

Publication at request of public officers, etc.

(3) Nothing in this section applies to the publication of seditious, blasphemous or indecent matter.

Seditious, etc., matter

(4) Subsections (1) and (2) do not apply where,

Where defendant fails to publish explanation

- (a) in the case of publication in a newspaper, the plaintiff shows that the defendant was requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, or
- (b) in the case of publication by broadcasting, the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, from the broadcasting stations from which the alleged defamatory matter was broadcast, on at least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

Continuation of existing privileges

(5) Any privilege existing by law in the Territory at the time of the commencement of this Ordinance shall continue to apply and is not limited or abridged by this section.

Matters not of public concern or benefit

(6) This section does not apply to the publication of any matter not of public concern or the publication of which is not for the public benefit. R.O. 1958, c. 28, s. 10.

Reports of court proceedings privileged

11. (1) A fair and accurate report, published in a newspaper or by broadcasting, of proceedings publicly heard before any court is absolutely privileged, if

- (a) the report contains no comment,
- (b) the report is published contemporaneously with the proceedings that are the subject matter of the report, or within thirty days thereafter, and
- (c) the report contains nothing of a seditious, blasphemous or indecent nature.

Where defendant fails to publish explanation

- (2) Subsection (1) does not apply where,
- (a) in the case of publication in a newspaper, the plaintiff shows that the defendant was requested to insert in the newspaper a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, or
 - (b) in the case of publication by broadcasting the plaintiff shows that the defendant has been requested to broadcast a reasonable statement of explanation or contradiction by or on behalf of the plaintiff and the defendant fails to show that he has done so, from the broadcasting stations from which the alleged defamatory matter was broadcast, on at least two occasions on different days and at the same time of day as the

alleged defamatory matter was broadcast or as near as possible to that time. R.O. 1958, c. 28, s. 11.

12. (1) For the purpose of sections 10 and 11, every headline or caption in a newspaper that relates to any report therein shall be deemed to be a report. R.O. 1958, c. 28, s. 12.

Headlines and captions

NEWSPAPERS AND BROADCASTING

13. (1) Sections 14 to 19 apply to actions for defamation against the proprietor or publisher or a newspaper or the owner or operator of a broadcasting station or an officer, servant or employee of the newspaper or broadcasting station in respect of defamatory matter published in the newspaper or broadcast from the station. R.O. 1958, c. 28, s. 13.

Application of sections 14 to 19

14. (1) No action lies unless the plaintiff has, within three months after the publication of the defamatory matter has come to his notice or knowledge, given to the defendant fourteen days' notice in writing of his intention to bring an action.

Notice of actions

(2) A notice under subsection (1) shall specify the language complained of and shall be served on the defendant in the same manner as a statement of claim. R.O. 1958, c. 28, s. 14.

Contents and service of notice

15. (1) An action against the proprietor or publisher of a newspaper, or the owner or operator of a broadcasting station, or an officer, servant or employee of the newspaper or broadcasting station for defamation contained in the newspaper or broadcast from the station shall be commenced within six months after the publication of the defamatory matter has come to the notice or knowledge of the person defamed.

Limitations of actions

(2) An action commenced within the period prescribed in subsection (1) may include a claim for any other defamation published against the plaintiff by the defendant in the same newspaper or from the same broadcasting station within a period of one year before the commencement of the action. R.O. 1958, c. 28, s. 15.

Action may include certain other defamations

16. (1) An action shall be tried in the district where the chief office of the newspaper or of the owner or operator of the broadcasting station is situated or wherein the plaintiff resides at the time the action is brought; but, upon the application of either party, a judge may direct the action to be tried, or the damages to be assessed, in any other district if it appears to be in the interests of justice, and may impose

Place of trial

such terms as to payment of witness fees and otherwise as he deems proper. R.O. 1958, c. 28, s. 16.

Mitigation of damages where apology and retraction published

17. (1) The defendant may prove in mitigation of damages that the defamatory matter was inserted in the newspaper or was broadcast without actual malice and without gross negligence, and that, before the commencement of the action, or at the earliest opportunity afterwards, the defendant

- (a) inserted in the newspaper in which the defamatory matter was published a full and fair retraction thereof and a full apology for the defamation, or, where the newspaper in one ordinarily published at intervals exceeding one week, that he offered to publish such retraction and apology in any newspaper to be selected by the plaintiff, or
- (b) broadcast such retraction and apology, from the broadcasting stations from which the defamatory matter was broadcast, on at least two occasions on different days and at the same time of day as the defamatory matter was broadcast or as near as possible to that time.

Mitigation of damages where plaintiff has received damages

(2) The defendant may prove in mitigation of damages that the plaintiff has already brought action for, or has recovered damages, or has received or agreed to receive compensation in respect of defamation to the same purport or effect as that for which action is brought. R.O. 1958, c. 28, s. 17.

Where recovery of special damages only

18. (1) The plaintiff shall recover only special damages where it appears at the trial that

- (a) the alleged defamatory matter was published in good faith;
- (b) there was reasonable ground to believe that its publication was for the public benefit;
- (c) it did not impute to the plaintiff the commission of a criminal offence;
- (d) the publication took place in mistake or misapprehension of the facts; and
- (e) a full and fair retraction of and a full apology for any statement therein alleged to be erroneous were published before the commencement of the action
 - (i) where the alleged defamatory matter was published in a newspaper, in the same newspaper in as conspicuous a place and type as was the alleged defamatory matter, or
 - (ii) where the alleged defamatory matter was broadcast from the same broadcasting stations on at

least two occasions on different days and at the same time of day as the alleged defamatory matter was broadcast or as near as possible to that time.

(2) Subsection (1) does not apply to case of defamation against any candidate for public office unless the retraction and apology were made editorially in the newspaper in a conspicuous manner or broadcast, as the case may require, at least five days before the day of election for such office. R.O. 1958, c. 28, s. 18.

Exception in case of candidate for public office

19. (1) No defendant in an action for defamation published in a newspaper is entitled to the benefit of section 14, 15 or 18 unless the name of the proprietor and publisher and address of the publication are stated in a conspicuous place in the newspaper.

Name of proprietor, etc., to be published

(2) The production of a printed copy of a newspaper is *prima facie* evidence of the publication of the printed copy and of the truth of the statements mentioned in subsection (1).

Prima facie evidence

(3) No owner, operator, officer, servant or employee of a broadcasting station who is a defendant in an action for defamation published by broadcasting is entitled to the benefit of section 14, 15 or 18 unless the broadcasting station has, within ten days after receiving a written request from the person bringing such action, supplied that person with the names and addresses of the owner or operator of the station and of the officers, servants and employees of the station who were involved in the broadcast in respect of which the action is brought. R.O. 1958, c. 28, s. 19.

Name of owner, etc., of broadcasting station to be supplied

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER D-2

DENTAL PROFESSION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Dental Profession Ordinance*. R.O. 1958, c. 29, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“dentist” means a person who is licensed pursuant to this Ordinance to practise dentistry in the Territory ; “dentist”

“dentistry” means the treatment, advice, service or attendance that is usually rendered or performed by dentists in the practice of their profession and includes the practice of dental surgery ; “dentistry”

“licence” means a licence to practise dentistry in the Territory issued pursuant to this Ordinance ; “licence”

“register” means the Dental Register. R.O. 1958, c. 29, s. 2. “register”

REGISTRATION AND LICENSING

3. (1) No person shall practise dentistry in the Territory unless he is licensed pursuant to this Ordinance. R.O. 1958, c. 29, s. 3. Licence required to practise

4. (1) The Territorial Secretary shall keep a register, called the Dental Register, in which shall be entered the names of all persons who are, pursuant to this Ordinance, entitled to be registered in the Dental Register, and a licence may be issued to any such person. Register of dentists

(2) A licence issued under this Ordinance expires on the 31st day of March immediately following the day on which such licence came into force. R.O. 1958, c. 29, s. 4.

5. (1) A person who Qualifications

(a) is a graduate of a school or college of dentistry in Canada ;

(b) has been issued a Certificate of Qualification

- (i) by the Dominion Dental Council of Canada or the National Dental Examining Board of Canada, or
 - (ii) under the seal of a dental college, society or association established in any province of Canada, stating that he has been duly registered as a practising dentist and has practised as such in a province of Canada within two years immediately prior to his application for a licence under this Ordinance; or
 - (c) on the 22nd day of November, 1954, was entitled by law to practise dentistry in the Territory;
- and who pays the fees required by this Ordinance, is entitled to be registered in the register. R.O. 1958, c. 29, s. 5.

Licence fee

6. (1) Every person who is registered in the register shall send to the Territorial Secretary at the time his name is registered in the register and subsequently on or before the thirty-first day of March in each year the prescribed annual licence fee. R.O. 1958, c. 29, s. 7; 1971 (1st) c. 20, s. 8(2).

Removal of name from register

7. (1) The Territorial Secretary shall remove from the register the name of a person registered therein who does not, on or before the thirtieth day of June in any year, pay the prescribed annual licence fee.

Not entitled to practise until name restored

(2) A person whose name is removed from the register pursuant to subsection (1) is not entitled to practise dentistry in the Territory until his name has been restored to the register pursuant to subsection (3).

Restoration of name

(3) A person whose name is removed from the register under subsection (1) is entitled to have his name restored to the register and to receive a licence upon payment of such fee in addition to the prescribed annual licence fee.

SPECIAL PERMITS

Special permits

8. (1) The Commissioner may issue a permit to practise dentistry in such parts of the Territory, for such periods of time, upon such terms and conditions and upon payment of such fees as the Commissioner may prescribe, to any person who

(a) has completed at least four years' course of study in dentistry at a college or school of dentistry of recognized standing, and

(b) has received a diploma or certificate of qualification from any such college or school,

if, in the opinion of the Commissioner, such person is of good character and is qualified from the standpoint of his profes-

sional proficiency to practise dentistry ; and for the purposes of this Ordinance, a person shall, when practising the profession of dentistry pursuant to this section, be deemed to be licensed. R.O. 1958, c. 29, s. 9.

PRACTICE OF DENTISTRY

9. (1) No person is entitled to receive a fee or remuneration for professional services rendered or materials or appliances provided by him in the practice of dentistry unless he is licensed under this Ordinance at the time the services are rendered or the materials or appliances are provided. R.O. 1958, c. 29, s. 10. Must be licensed

10. (1) The Commissioner may appoint two or more persons described in paragraph 5(1)(a) or 5(1)(b) to act as a Board of Inquiry for the purpose of investigating any complaint made against a person practising as a dentist with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of a person practising as a dentist. Board of Inquiry

(2) A Board of Inquiry appointed pursuant to subsection (1) may make rules and regulations under which the inquiry is to be held and has power Powers of Board

- (a) to summon and bring before it any person whose attendance it considers necessary to enable the Board properly to inquire into the matter complained of ;
- (b) to swear and examine all persons under oath ;
- (c) to compel the production of documents ; and
- (d) to do all things necessary to provide a full and proper inquiry.

(3) A Board of Inquiry may direct that the person who made the complaint it is appointed to investigate shall deposit with the board, as security for the costs of the inquiry and to the person complained against, a sum not exceeding five hundred dollars. Security for costs

(4) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Territorial Treasurer out of the deposit for security mentioned in subsection (3) such portion of the costs of the inquiry and to the person complained against as it deems advisable, and where the Board does not so find or where there is any balance of the deposit remaining, the deposit or balance thereof shall be returned to the person who deposited it. Frivolous and vexatious complaint

Quorum (5) A majority of the members of a Board of Inquiry is a quorum.

Findings and recommendations (6) A Board of Inquiry shall, after investigation of a complaint pursuant to this section, make a finding and shall immediately report its finding to the Commissioner, and where it finds that the person complained against is guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct, may, in its report to the Commissioner, recommend that such person be

- (a) reprimanded;
- (b) fined in an amount named by the Board, such amount not to exceed five hundred dollars;
- (c) struck off the register and his licence cancelled; or
- (d) struck off the register and his licence suspended for a definite period named by the Board.

Notification to person complained against (7) The Board of Inquiry shall, at the time it sends its report to the Commissioner pursuant to subsection (6), notify the person complained against of its finding and of the recommendations for punishment, if any, made by it in such report.

Offences (8) Every person who

- (a) fails, without valid excuse, to attend an inquiry under this section,
- (b) fails to produce any document, book or paper in his possession or under his control, as required under this section, or
- (c) at an inquiry under this section
 - (i) refuses to be sworn in or affirm, or to declare, as the case may be, or
 - (ii) refuses to answer any proper question put to him by the Board of Inquiry,

commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars, or to imprisonment for a term not exceeding three months, or to both fine and imprisonment. R.O. 1958, c. 29, s. 11.

Appeal to judge 11. (1) A person against whom a finding has been made by a Board of Inquiry may, within thirty days after the finding has been made, appeal from such finding to a judge.

Powers of judge (2) The judge before whom an appeal is made under subsection (1) may hear the appeal at such time and in such manner as he deems just and he may, by order, quash, alter

or confirm the finding of the Board of Inquiry. R.O. 1958, c. 29, s. 12.

12. (1) Where a dentist has been found guilty of a contravention of this Ordinance or of malpractice or of infamous, disgraceful or improper conduct by a Board of Inquiry and no appeal has been taken from the finding or the time for appeal has expired, the Commissioner shall, after receiving the report from the Board, impose the penalty recommended by it, and

Commissioner powers on recommendation by Board

- (a) in the case of a reprimand, reprimand the dentist in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the dentist, which order shall be filed in the appropriate court and have the same effect as an order of that court;
- (c) in the case of a recommendation to strike off the register and cancel his licence, have the name of the dentist struck off the register and cancel his licence; and
- (d) in the case of a recommendation to strike off the register and suspend his licence, have the name of the dentist struck off the register and suspend his licence for such time as the Board has recommended.

(2) Where a judge on appeal confirms or alters the finding of a Board of Inquiry, his order in the case of a fine shall be carried out in the usual way and in the case of any other punishment referred to in subsection (1) shall be directed to the Commissioner and carried out by him in the same manner as provided by subsection (1). R.O. 1958, c. 29, s. 13.

Commissioner to enforce order of judge

13. (1) A dentist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 12 may,

Application for reinstatement

- (a) where he had not taken any appeal from the finding, within one year from the date of the finding of the Board of Inquiry, apply to the Commissioner to have his name restored to the register, or
- (b) where he had appealed from the finding, within one year from the date of an order made under subsection 11(2), apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

(2) The Commissioner or a judge may, upon application under subsection (1), order the Territorial Secretary to reinstate a dentist on the register and renew his licence and

Order by Commissioner or judge

restore his rights and privileges in such manner and upon such conditions as the Commissioner or judge may decide.

Territorial Secretary to reinstate

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate a dentist on the register and renew his licence and restore his rights and privileges in such manner and upon such conditions as the order directs. R.O. 1958, c. 29, s. 14.

OFFENCES AND PENALTIES

Person who practises illegally guilty of offence

14. (1) A person who, not being licensed pursuant to this Ordinance,

- (a) practises dentistry ;
- (b) wilfully or falsely pretends to be licensed to practise dentistry ; or
- (c) purports by public advertisement, card, circular, sign or otherwise, to practise dentistry or in any way leads people to believe that he is qualified to practise dentistry in the Territory,

commits an offence and is liable upon summary conviction to a fine of fifty dollars and for every day on which he commits any such offence he shall be deemed to have committed a separate offence. R.O. 1958, c. 29, s. 15.

Burden of proof

15. (1) In any prosecution for an offence under this Ordinance, the burden of proof as to the right of the defendant to practise dentistry in the Territory is on the defendant. R.O. 1958, c. 29, s. 16.

Limitation of action

16. (1) No prosecution for an offence under this Ordinance shall be instituted after two years from the date the offence was committed. R.O. 1958, c. 29, s. 17.

APPLICATION

Emergency aid may be given

17. (1) Nothing in this Ordinance shall be deemed to prohibit a person giving necessary aid to a person who appears to be in urgent need of aid, if the aid is not given for hire or gain and the giving of such aid is not made a business or means of gaining a livelihood. R.O. 1958, c. 29, s. 18.

Federal Government employees excepted

18. (1) Nothing in this Ordinance applies to a person who practises dentistry in the Territory in the course of his duties as an employee of the Government of Canada, unless he practises dentistry on his own behalf in the Territory outside the course of his duties as an employee of the said Government. R.O. 1958, c. 29, s. 19.

DENTAL HYGIENISTS

19. (1) The Territorial Secretary shall keep a register of dental hygienists in which he may, upon application, enter the name of any person qualified to practise as a dental hygienist by training at a recognized school or college of dentistry or dental hygiene. R.O. 1958, c. 29, s. 20. Register of dental hygienists

20. (1) No dental hygienist registered under section 19 is guilty of an offence for anything done by him in practising as a dental hygienist. R.O. 1958, c. 29, s. 21. Saving

21. (1) No person shall practise as a dental hygienist unless he is registered as a dental hygienist or licensed as a dentist pursuant to this Ordinance. R.O. 1958, c. 29, s. 22. Prohibition

22. (1) No person shall perform any of the services of a dental hygienist unless a dentist, having examined a patient, has authorized in writing a specific treatment, set out in section 23, to be performed by the dental hygienist for that patient. 1964 (2nd) c. 10, s. 1. Authorization necessary

23. (1) Every dentist may authorize dental hygienists to perform the following services; Services permitted

- (a) the cleaning, scaling and polishing of teeth;
- (b) the application of such prophylactic solutions as the Commissioner may prescribe;
- (c) specific dental duties of a minor nature; and
- (d) if the dental hygienist has successfully completed a course approved by the Commissioner in the extracting and filling of teeth,
 - (i) the extraction of deciduous teeth under local infiltration anaesthesia, and
 - (ii) the undertaking of dental fillings. 1964 (2nd) c. 10, s. 1.

24. (1) The Commissioner may make regulations Regulations

- (a) prescribing the fees to be charged under this Ordinance;
- (b) prescribing anything required to be prescribed by this Ordinance; and
- (c) generally for defining, regulating and controlling the practice of dental hygiene. R.O. 1958, c. 29, s. 23; 1964 (2nd) c. 10, s. 2; 1971 (1st) c. 20, s. 8(5).

Offences and penalties

25. (1) A person who violates section 21 or a regulation commits an offence and is liable on summary conviction to a fine of fifty dollars and for every day on which he commits any such offence he shall be deemed to have committed a separate offence. R.O. 1958, c. 29, s. 24.

Offences and penalties

26. (1) Every person who violates the provisions of section 22 commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding one month or to both fine and imprisonment. 1964 (2nd) c. 10, s. 3.

Commissioner may strike off register

27. (1) Where a dental hygienist has been found guilty of an offence under section 25 or 26 and no appeal has been taken from the conviction or the time for appeal has expired, the Commissioner may suspend his licence for a period not exceeding six months or may have his name struck off the register and cancel his licence.

Idem.

(2) Where a judge on appeal upholds a conviction, the Commissioner may proceed in the same manner as provided by subsection (1). 1964 (2nd) c. 10, s. 3.

Application for reinstatement

28. (1) A dental hygienist whose name has been struck off the register and whose licence has been cancelled pursuant to section 27 may, at any time, apply to the Commissioner to have his name reinstated on the register

Order by Commissioner

(2) The Commissioner may, upon application under subsection (1) and after hearing the applicant, order the Territorial Secretary to reinstate him on the register and renew his licence and restore his rights and privileges, in such manner and upon such conditions as the Commissioner may decide. 1964 (2nd) c. 10, s. 3.

CHAPTER D-3

DEPENDANTS' RELIEF ORDINANCE

1. This Ordinance may be cited as the *Dependants' Relief Ordinance*. 1962 (1st) c. 9, s. 1. Short title

2. (1) In this Ordinance

"allowance" means an allowance ordered to be paid pursuant to this Ordinance; "allowance"

"child" includes "child"

(a) a natural child, stepchild or adopted child of a deceased, or

(b) a child who appears to the satisfaction of the Court in effect to have been adopted although there has not been compliance with the *Adoption Ordinance*;

"deceased" includes a testator and a person dying intestate; "deceased"

"dependant" means the spouse of a deceased, a child of the deceased under twenty-one years of age, and a child of the deceased twenty-one years of age or over who by reason of mental or physical infirmity is unable to earn a livelihood, and any person who satisfies the Court of a moral claim to participate in an estate under the provisions of this Ordinance; "dependant"

"estate" means all the property which a deceased was competent to dispose of by will, otherwise than by virtue of a special power of appointment, less the amount of his funeral, testamentary and administration expenses, debts and liabilities and any succession or other duties payable out of his estate on his death. "estate"

(2) This Ordinance is applicable in respect of any deceased person who, at the time of his death on or after the 1st day of January 1962, was domiciled in the Yukon Territory. 1962 (1st) c. 9, s. 2. Application of Ordinance

3. (1) Where a person dies domiciled in the Yukon Territory leaving one or more dependants, an application may be made to the Court by or on behalf of any such dependant for an order making reasonable provision for his maintenance. Application to Court for relief

Intestate
deemed to be a
testator etc

(2) Where an application is made under subsection (1) by or on behalf of any dependant of an intestate, then, for the purpose of this Ordinance, the intestate shall be deemed to be a testator and to have provided by will for the distribution of his estate as an intestacy, and this Ordinance shall be construed accordingly. 1962 (1st) c. 9, s. 3.

4. (1) Any application may be made by notice of motion styled in the matter of the estate of the deceased. 1962 (1st) c. 9, s. 4.

Service of notice
of motion
Notice of motion

5. (1) Notice of any application shall be served upon
(a) the public administrator and
(b) the executors named in the will or any person to whom a grant of letters of administration has been made, at least fourteen clear days before the notice is returnable.

(2) The Court may direct any other person to be served with notice of an application and, subject to this Ordinance, the practice and procedure of the Court upon applications in chambers shall, so far as the same are found to be applicable, apply to proceedings under this Ordinance. 1962 (1st) c. 9, s. 5.

Affidavit

6. (1) An application shall be supported by an affidavit of the applicant setting forth fully all the facts in support of the application. 1962 (1st) c. 9, s. 6.

Other evidence

7. (1) In addition to the evidence adduced by the applicant, the Court may direct such other evidence to be given as it deems necessary. 1962 (1st) c. 9, s. 7.

Maintenance
order

8. (1) If upon an application the Court is of opinion that the deceased has by will so disposed of real or personal property that reasonable provision has not been made for the maintenance of the dependant to whom the application relates, then, subject to this Ordinance, the Court may in its discretion make such order as it deems proper charging the whole or any portion of the estate with payment of an allowance sufficient to provide such maintenance as the Court thinks reasonable, just and equitable in the circumstances.

Widow's allow-
ance

(2) No allowance ordered to be made to the wife of a deceased shall be less than she would have received if her husband had died intestate leaving a widow and children, but the Court may refuse to make an order in favour of a widow who had without reasonable excuse left her husband or

was otherwise separated from her husband under such circumstances as would desentitle her to alimony.

(3) Payment of an allowance may be made to or for the use and benefit of a dependant How allowance may be made

- (a) in the form of a lump sum,
- (b) in the form of periodic payments of stated amounts, or
- (c) by the transfer or assignment of property
 - (i) absolutely, or
 - (ii) in trust for life or a term of years.

(4) Where a transfer or assignment of property is ordered pursuant to subsection (3), the Court may give all necessary and proper directions for the execution of the transfer, or may grant a vesting order. Directions for transfer

(5) The Court shall, in determining whether and how provision for maintenance ought to be made by an order, have regard to the nature of the property comprising the deceased's estate and shall not make any order necessitating a realization that would be improvident having regard to the interests of the dependants and any person who, apart from the order, would be entitled to any such property. Interests protected

(6) The Court shall, in deciding upon an application, have regard to Factors to be taken into accounts

- (a) any past, present or future capital or income received from any source by the dependant to whom the application relates,
- (b) the claims that any person may have as a dependant of the deceased, and
- (c) generally, any other matters that the Court deems should be taken into account.

(7) The Court shall, in deciding upon an application, have regard to the deceased's reasons, so far as ascertainable, for making the dispositions made by his will or for not making any provision or any further provision, as the case may be, for a dependant and the Court may accept such evidence of those reasons as it considers sufficient, including any statement in writing signed by the deceased and dated, but in estimating the weight to be attached to any such statement the Court shall have regard to all the circumstances from which any reasonable inference can be drawn respecting the accuracy of the statement. 1962 (1st) c. 9, s. 8. Idem.

9. (1) Where a deceased has in his lifetime, bona fide and for valuable consideration, entered into a contract to devise Devise of property pursuant to contract

or bequeath any real or personal property and has by his will devised or bequeathed such property in accordance with the provisions of the contract, such property is not liable to be charged by an order made under this Ordinance except to the extent that the value of the property, in the opinion of the Court, exceeds the consideration received by the deceased therefor. 1962 (1st) c. 9, s. 9.

Allowances fall rateably on whole estate

10. (1) The incidence of any allowance shall, unless the Court otherwise determines, fall rateably upon the whole estate, or whether the authority of the Court does not extend or cannot be made to extend to the whole estate, then on so much thereof as is situated in the Territory. 1962 (1st) c. 9, s. 10.

Power of Court to release part of estate

11. (1) The Court may exonerate any part of the deceased's estate from the incidence of an allowance after hearing such of the parties as may be affected by the exoneration as it deems necessary, and may for the purpose of such hearing direct any executor or trustee to represent, or appoint any person to represent, any such party. 1962 (1st) c. 9, s. 11.

12. (1) The Court may

Power of Court to allow commutation

- (a) at any time order any legatee or devisee to pay
 - (i) a periodic payment to represent, or
 - (ii) a lump sum in commutation of,
 - such proportion of a sum ordered to be paid pursuant to this Ordinance as falls upon the part of the deceased's estate in which the legatee or devisee has an interest,
- (b) exonerate such part of the deceased's estate from any further liability under this Ordinance, and
- (c) direct
 - (i) in what manner the periodic payment referred to in paragraph (a) shall be secured, or
 - (ii) to whom the lump sum referred to in paragraph (a) shall be paid and in what manner it shall be invested for the benefit of the person to whom it is payable. 1962 (1st) c. 9, s. 12.

Effect of order

13. (1) Where an order is made under this Ordinance, then, for all purposes, the will shall have effect and shall be deemed to have had effect as from the deceased's death, as if it had been executed, with such variations as are specified in the order, for the purpose of giving effect to the provision for maintenance made by the order.

(2) The Court may give such consequential directions as it deems fit for the purpose of giving effect to an order, but no larger part of an estate shall be set aside, or appropriated to answer by the income thereof the provision for maintenance made by an order, than such part as is sufficient, at the date of the order, to produce by the income thereof the amount of the provision for maintenance.

Directions

(3) A certified copy of every order made under this Ordinance shall be filed with the clerk of the Court out of which the grant of letters probate or letters of administration in the estate to which the order relates was issued, and a memorandum of the order shall be endorsed on, or annexed to, the original grant of letters probate or letters of administration. 1962 (1st) c. 9, s. 13.

Grant to be endorsed

14. (1) No order under section 8 shall be made unless on an application made within one year from the grant of letters probate or letters of administration in the estate to which the application relates, but the Court may, if it deems it just, allow an application to be made at any time as to any portion of the estate remaining undistributed at the date of the application. 1962 (1st) c. 9, s. 14.

Time limited for entertaining applications

15. (1) After service of notice of an application the executor, trustee or administrator of an estate shall not proceed with the distribution thereof until the application is disposed of.

Distribution of estate postponed

(2) Every executor, trustee or administrator who contravenes subsection (1) commits an offence and is liable on summary conviction

(a) in the case of a person, other than a corporation, to a fine not exceeding one thousand dollars and in default of payment to imprisonment for a term not exceeding sixty days, and

(b) in the case of a corporation, to a fine not exceeding two thousand dollars. 1962 (1st) c. 9, s. 15.

16. (1) No dependant for whom provision is made pursuant to this Ordinance has capacity to anticipate the same, and no mortgage, charge or assignment of any kind whatsoever of such provision made before the order of the Court has any force, validity or effect. 1962 (1st) c. 9, s. 16.

Mortgage in anticipation invalid

17. (1) The Court may at any time discharge, vary or suspend any order made by it, or make such other order as it deems just in the circumstances, on the ground that any

Power of Court to discharge or vary order

material fact was not disclosed to the Court when the order was made.

(2) An application for an order under subsection (1) may be made by or on behalf of

(a) a dependant,

(b) a beneficiary under a will, or

(c) a person entitled under the *Intestate Succession Ordinance* to share in the estate of the deceased. 1962 (1st) c. 9, s. 17.

Costs

18. (1) The Court may direct that the costs of any application shall be payable out of the estate or otherwise as it deems just, and may fix the amount of the costs payable by any party, exclusive of necessary disbursements, at a lump sum having regard to the value of the estate and the amount of any allowance applied for or directed by its order. 1962 (1st) c. 9, s. 18.

Enforcement of order

19. (1) Any order made under this Ordinance may be enforced against the estate of the deceased in the same way and by the same means as any other judgment or order of the Court against the estate might be enforced, and the Court may make such order or direction, or interim order or direction, as may be necessary to secure to the dependant payment out of the estate of the allowance to which the dependant is, or may be found to be entitled. 1962 (1st) c. 9, s. 19.

Part distribution

20. (1) Nothing in this Ordinance shall authorize the revocation or annulment of any administrative acts or payments or distributions made prior to service of the notice pursuant to section 5 of this Ordinance by the executor or administrator of the will in respect of which relief is sought. 1962 (1st) c. 9, s. 20.

CHAPTER D-4

DEVOLUTION OF REAL PROPERTY ORDINANCE

1. This Ordinance may be cited as the *Devolution of Real Property Ordinance*. R.O. 1958, c. 30, s. 1. Short title

2. (1) In this Ordinance Definitions
 "mentally disordered person" includes an idiot and a person of unsound mind; "mentally disordered person"
 "personal representative" means the executor, original or by representation, or administrator for the time being of a deceased person. R.O. 1958, c. 30, s. 2. "personal representative"

3. (1) Real property to which a deceased person was entitled for an interest not ceasing on his death shall on his death, notwithstanding any testamentary disposition, devolve upon and become vested in his personal representative as if it were personal property. Devolution of real property upon personal representatives
 (2) A testator shall be deemed to have been entitled at his death to any interest in real property passing under any gift contained in his will which operates as an appointment under a general power to appoint by will.
 (3) The personal representative is the representative of the deceased in regard to his real property to which he was entitled for an interest not ceasing on his death as well as in regard to his personal property. Powers of personal representative

- (4) Probate and letters of administration may be granted in respect of real property only, although there is no personal property. R.O. 1958, c. 30, s. 3. Probate and letters of administration

4. (1) Except as provided in this Ordinance, the personal representative of a deceased person holds the real property as trustee for the persons by law beneficially entitled thereto, and those persons have the same right to require a transfer of real property as persons beneficially entitled to personal property have to require a transfer of such personal property. R.O. 1958, c. 30, s. 4. Personal representative to hold as trustee

5. (1) Except as provided in this Ordinance, all enactments and rules of law, and any jurisdiction of the Court with respect to the appointment of administrators or to probate or letters of administration, or dealings before probate in the case of personal property, and with respect to costs and other Rules of law to apply

matters in the administration of personal property in force before the 1st day of April 1955, and all powers, duties, rights, equities, obligations and liabilities of a personal representative in force on the 1st day of April 1955 with respect to personal property, apply and attach to the personal representative and have effect with respect to real property vested in him. R.O. 1958, c. 30, s. 5.

Saving provision as to administration of assets

6. (1) Without prejudice to the rights and powers of a personal representative, the appointment of a personal representative in regard to real property does not, except as otherwise provided in this Ordinance, affect

- (a) any rule as to the marshalling or administration of assets,
- (b) the beneficial interest in real property under any testamentary disposition,
- (c) any mode of dealing with any beneficial interest in real property or the proceeds of the sale thereof, or
- (d) the right of any person claiming to be interested in the real property to take proceedings for the protection or recovery thereof against any person other than the personal representative. R.O. 1958, c. 30, s. 6.

Administration of real property

7. (1) In the administration of the assets of a deceased person his real property shall be administered in the same manner, subject to the same liabilities for debts, costs and expenses and with the same incidents, as if it were personal property, but nothing in this Ordinance alters or affects the order in which real and personal assets respectively are now applicable. as between different beneficiaries, in or toward the payment of funeral and testamentary expenses, debts or legacies, or the liability of real property to be charged with payment of legacies. R.O. 1958, c. 30, s. 7.

Personal representatives to be deemed "heirs"

8. (1) When any part of the real property of a deceased person vests in his personal representative under this Ordinance, the personal representative, in the interpretation of any Ordinance or in the construction of any instrument to which the deceased was a party or under which he was interested, shall, while the estate remains in the personal representative be deemed in law the heir of the deceased, as respects such part, unless a contrary intention appears, but nothing in this section shall affect the beneficial right to any property or the construction of words of limitation of any estate in or by any deed, will or other instrument. R.O. 1958, c. 30, s. 8.

Orders for conveyance or sale

9. (1) At any time after the date of probate or letters of administration, the personal representative may convey the

real property to any person entitled thereto, and may make the conveyance either subject to a charge for the payment of any money which the personal representative is liable to pay, or without any such charge, and on the conveyance being made subject to a charge for all moneys, if any, which the personal representative is liable to pay, all liabilities of the personal representative in respect of the real property shall cease, except as to any acts done or contracts entered into by him before such conveyance.

(2) At any time after the expiration of one year from the date of probate or of letters of administration if the personal representative has failed, on the request of the person entitled to any real property, to convey the real property to that person, the Court may, if it thinks fit, on the application of that person and after notice to the personal representative, order that the conveyance be made, and in default may make an order vesting the real property in such person as fully and completely as might have been done by a conveyance thereof from the personal representative.

(3) If, after the expiration of one year, the personal representative has failed, either to convey the real property or any portion thereof to the person entitled thereto or to sell and dispose of it, the Court may, on the application of any person beneficially interested, order that the real property or portion be sold on such terms and within such period as may appear reasonable, and, on the failure of the personal representative to comply with such order, may direct a sale of the real property or portion upon such terms as to cash or credit, or partly one and partly the other, as may be deemed advisable. R. O. 1958, c. 30, s. 9.

10. (1) The personal representative may sell the real property for the purpose not only of paying debts but also of distributing the estate among the persons beneficially entitled thereto, whether or not there are debts, and it shall not be necessary that the persons beneficially entitled shall concur in any such sale except where it is made for the purpose of distribution only. R.O. 1958, c. 30, s. 10.

Powers of sale

11. (1) Except as provided in this Ordinance, no sale of real property for the purpose of distribution only is valid as respects any person beneficially interested unless he concurs therein.

Sale for distribution only

(2) Where, in the case of such a sale, a mentally disordered person is beneficially interested or adult beneficiaries do not concur in the sale, or where under a will there are contingent interests or interests not yet vested or the persons who may be beneficiaries are not yet ascertained, the Court may, upon

satisfactory proof that such sale is in the interest and to the advantage of the estate of the deceased and the persons beneficially interested therein, approve such sale, and any sale so approved is valid as respects such contingent interests and interests not yet vested and is binding upon such mentally disordered person, non-concurring persons and beneficiaries not yet ascertained.

(3) If an adult accepts a share of the purchase money, knowing it to be such, he is deemed to have concurred in the sale. R.O. 1958, c. 30, s. 11.

Where an infant interested

12. (1) No sale, where an infant is interested, shall be valid without the written consent or approval of the Public Administrator or, in the absence of such consent or approval, without an order of the Court. R.O. 1958, c. 30, s. 12.

Distribution or division

13. (1) The personal representative may, with the concurrence of the adult persons beneficially interested, and the approval of the Public Administrator on behalf of infants or mentally disordered persons if any infants or lunatics are interested, divide or partition and convey the real property of the deceased person, or any part thereof, to or among the persons beneficially interested. R.O. 1958, c. 30, s. 13.

Other powers of personal representatives

14. (1) The personal representative may, subject to the provisions of any will affecting the property,

- (a) lease the real property or any part thereof for any term not exceeding one year
- (b) lease the real property or any part thereof, with the approval of the Court, for a longer term and
- (c) raise money by way of mortgage of the real property or any part thereof for the payment of debts, or for payment of taxes on the real property to be mortgaged, and, with the approval of the Court, for payment of other taxes, the erection, repair, improvement or completion of buildings, or the improvement of lands, or for any other purpose beneficial to the estate.

(2) Where infants or mentally disordered persons are interested, the approvals or order required by sections 12 and 13 in case of a sale is required in the case of a mortgage, under paragraph (1)(c), for payment of debts or payment of taxes on the real property to be mortgaged. R.O. 1958, c. 30, s. 14.

Real property sold or distributed

15. (1) A person who purchases real property in good faith and for value from the personal representative, or from a person beneficially entitled thereto to whom it has been conveyed by the personal representative, holds it freed and discharged from any debts or liabilities of the deceased owner except those specifically charged thereon otherwise than by

his will, and, where the purchase is from the personal representative, freed and discharged from all claims of the persons beneficially interested.

(2) Real property which has been conveyed by the personal representative to a person beneficially entitled thereto continues to be liable for the debts of the deceased owner so long as it remains vested in such person, or in any person claiming under him not being a purchaser in good faith and for value, as it would have been if it had remained vested in the personal representative, and in the event of a sale or mortgage thereof in good faith and for value by a person beneficially entitled he shall be personally liable for such debts to the extent to which the real property was liable when vested in the personal representative but not beyond the value thereof. R.O. 1958, c. 30, s. 15.

16. (1) Subject to subsection (2), where there are two or more personal representatives, a conveyance, mortgage, lease or other disposition of real property devolving under this Ordinance shall not be made without the concurrence therein of all such representatives or an order of the Court.

Concurrence of personal representatives

(2) Where probate is granted to one or some of two or more persons named as executors, whether or not power is reserved to the other or others to prove, any conveyance, mortgage, lease or other disposition of the real property may be made by the proving executor or executors for the time being, without an order of the Court, and shall be as effectual as if all the persons named as executors had concurred therein. R.O. 1958, c. 30, s. 16.

17. (1) The rights and immunities conferred by this Ordinance upon personal representatives are in addition to, and not in derogation of, the powers conferred by any other Ordinance or by the will. R.O. 1958, c. 30, s. 17.

Rights hereby conferred to be additional

18. (1) Nothing in this Ordinance shall alter any duty payable in respect of real property or impose any new duty thereon. R.O. 1958, c. 30, s. 18.

Duties on real property

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER D-5

DISABLED PERSONS' ALLOWANCE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Disabled Persons' Allowance Ordinance*. R.O. 1958, c. 31, s. 1.

INTERPRETATION

2. (1) In this Ordinance
- "allowance" means a disabled person's allowance provided under this Ordinance and the regulations to the persons and under the conditions specified in the Federal Act;
 - "application" means an application for an allowance;
 - "Director" means the person appointed as such by the Commissioner to administer this Ordinance;
 - "Federal Act" means the *Disabled Persons Act* enacted by the Parliament of Canada together with any regulations made thereunder;
 - "recipient" means a person to whom an allowance has been granted and includes an applicant for an allowance. R.O. 1958, c. 31, s. 2.

ALLOWANCES

3. (1) The Commissioner may on behalf of the Yukon Territory enter into an agreement with the Minister of National Health and Welfare on behalf of the Government of Canada, to provide a general scheme of allowances to disabled persons in accordance with this Ordinance and the Federal Act and for the payment by the Government of Canada to the Yukon Territory in respect of any recipient of an amount equal to not less than fifty per cent of seventy-five dollars monthly or of the amount of the allowance paid monthly to the recipient, whichever is the lesser.

(2) An agreement made under this Ordinance may be varied or amended from time to time by agreement of the Government of Canada and the Commissioner. R.O. 1958, c. 31, s. 3; 1962 (1st) c. 16, s. 1; 1964 (1st) c. 4, s. 1.

Payments and amounts

4. (1) From and out of the Yukon Consolidated Revenue Fund there may be paid,

- (a) to a recipient whose application has been approved, an allowance not exceeding seventy-five dollars monthly under the conditions specified in this Ordinance and the regulations and the Federal Act and any agreement made under section 3; and
- (b) the expenses incurred in the administration of this Ordinance. R.O. 1958, c. 31, s. 4; 1962 (1st) c. 16, s. 2; 1964 (1st) c. 4, s. 2.

Appointment of Director

5. (1) The Commissioner may appoint a person as Director to administer this Ordinance.

Substitute for Director

(2) The Commissioner may authorize a person to exercise and carry out the powers and duties of the Director during his absence or incapacity or during any period in which the office of Director is vacant.

(3) The Director shall

- (a) receive applications, and
- (b) determine the eligibility of each applicant for an allowance and approve or reject any application for the grant of an allowance.

Powers of Director

(4) The Director may

- (a) call for any additional proof of eligibility for an allowance that may be prescribed by the regulations or the Federal Act, and
- (b) confirm, amend or reverse any direction or determination made by him under this Ordinance,

and, subject to his right to amend or reverse any such direction or determination, every direction or determination made by the Director is final and is not subject to review by any court or otherwise. R.O. 1958, c. 31, s. 5.

Payment where recipient dies

6. (1) Notwithstanding any other law or Ordinance, in the case of the death of a recipient payment of the allowance for the month in which the death occurs may be made to such person as the Director specifies.

Administration of estate in certain cases

(2) In any case in which no other legal representative of the estate of a deceased recipient is appointed, a judge shall upon the request of the Director, without fees or the usual forms leading to a grant or requirements of a surety or sureties to the bond, grant administration to the Public Administrator. R.O. 1958, c. 31, s. 6.

7. (1) An allowance granted under this Ordinance is exempt from taxes levied under any Ordinance, is not subject to garnishment, attachment or seizure and is not assignable. R.O. 1958, c. 31, s. 7.

Exempt from taxes, seizure, etc.

8. (1) The receipt of allowance does not by itself disqualify any person from voting at any election held in the Territory under any Ordinance or other law. R.O. 1958, c. 31, s. 8.

Does not affect right to vote

9. (1) Notwithstanding any other provision of this Ordinance, any sum of money or other payment improperly paid by way of allowance to or on behalf of a recipient, whether as a result of non-disclosure of fact, innocent or false representations or other cause, constitutes a debt due to the Territory and may be recovered as such at any time.

Recovery of improperly paid allowances

(2) Any action, suit or other proceeding for the recovery of a debt due to the Territory may be instituted in the name of the Commissioner. R.O. 1958, c. 31, s. 9.

Proceedings in name of Commissioner

10. (1) Unless the consent of the Commissioner has been obtained, no action or other proceeding shall be brought against the Director or any officer, clerk or servant for anything done or omitted to be done in the exercise or purported exercise of any duty or power under this Ordinance. R.O. 1958, c. 31, s. 10.

No action against Director, etc.

11. (1) The Commissioner may make such regulations, not inconsistent with this Ordinance and the Federal Act, respecting the provision of a scheme of allowances as specified in section 3 as he deems necessary for the proper administration of this Ordinance and, without restricting the generality of the foregoing, may make regulations

Regulations

- (a) governing the manner of making application for allowances;
- (b) respecting the suspension or cancellation of allowances;
- (c) providing for the making of investigations respecting persons to whom allowances may be paid or who are in receipt of allowances or by or on behalf of whom application has been made for any allowance;
- (d) prescribing the material in support of or proof of any fact, including evidence under oath, that shall be furnished as a condition precedent to the payment of any allowance;
- (e) respecting the mode of payment of allowances; and

(f) prescribing forms for use under this Ordinance. R.O. 1958, c. 31, s. 11.

Unqualified persons not to receive

12. (1) No person shall knowingly obtain or receive an allowance to which he is not entitled under this Ordinance, the regulations and the Federal Act.

Not to aid or abet improper receipt

(2) No person shall knowingly aid or abet another person to obtain or receive an allowance to which he is not entitled under this Ordinance, the regulations and the Federal Act.

Offence and penalty

(3) Every person who violates this section commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding three months, or to both fine and imprisonment. R.O. 1958, c. 31, s. 12.

Time for prosecution

13. (1) No prosecution for any offence against this Ordinance shall be commenced after the expiration of five years from the date of the commission of such offence. R.O. 1958, c. 31, s. 13.

CHAPTER D-6

DISTRESS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Distress Ordinance*. Short title
R.O. 1958, c. 32, s. 1.

COSTS

2. (1) No person who makes a distress for rent or who is employed to make a distress or to do any act in the course of a distress or to carry a distress into effect shall levy, take or receive costs in respect of the distress other than the prescribed fees. R.O. 1958, c. 31, s. 2; 1971 (1st) c. 20, s. 9(1). Charges for distress

3. (1) No person who makes a seizure under a chattel mortgage, lien note or other extrajudicial procedure or who is employed to make a seizure or to do any act in the course of a seizure or to carry a seizure into effect shall levy, take or receive costs in respect of the seizure other than the prescribed fees. R.O. 1958, c. 32, s. 3; 1971 (1st) c. 20, s. 9(2). Charges for extrajudicial seizure

4. (1) No person shall charge for any service, work or thing under this Ordinance unless that service, work or thing has been actually done, made or provided. R.O. 1958, c. 32, s. 3; 1971 (1st) c. 20, s. 9(3). Work must be done

5. (1) Where costs are charged in respect of a distress or seizure contrary to section 2, 3 or 4, the person against whom such costs are charged may, by notice of motion, summon the person charging such costs before a judge and the judge may order the person charging the costs to pay to the person against whom they were charged any sum not exceeding treble the amount charged together with the costs of the proceedings under this section. R.O. 1958, c. 32, s. 6. Remedy by person who is overcharged

SEIZURES

6. (1) Chattels shall not be seized under a chattel mortgage by any person other than the sheriff or a person duly authorized by the sheriff for that purpose. Seizure under chattel mortgage

(2) The sheriff or other person authorized by him to make the seizure may, upon being requested to make a seizure Indemnity

under subsection (1), require from a person requesting such seizure

- (a) a sufficient sum to cover all prescribed fees and disbursements, and
- (b) indemnification as to damages in an amount considered reasonable under the circumstances by the sheriff or other person making the seizure. R.O. 1958, c. 32, s. 7; 1972 (1st) c. 20, s. 9(5).

Right to distrain by vendors and mortgagees of land

7. (1) The rights of a mortgagee or a vendor of land or their assigns, under a mortgage or agreement of sale, to distrain for interest in arrears or principal due upon the mortgage or agreement of sale are, notwithstanding anything to the contrary in the mortgage or agreement of sale or in any other agreement relating to the mortgage or agreement of sale, limited to the goods and chattels of the mortgagor or purchaser or their assigns that are not exempt from seizure under the *Exemptions Ordinance*.

Recovery of rent or rentable value

(2) A mortgagee or vendor of land may make an application in writing to the tenant or other person occupying the land or any part of the land for payment to the mortgagee or vendor of the rent or rentable value of the land or part of the land occupied to the extent of interest or principal due and payable to the mortgagee or vendor by the mortgagor or purchaser under the mortgage or agreement of sale and to the extent of the sums paid by the mortgagee or vendor in respect of taxes, levies and insurance premiums, or in respect of any prior mortgage or charge upon the land, for which the mortgagor or purchaser is liable.

Method of enforcement

(3) Rent or rentable value under subsection (2), whether or not the mortgagor or purchaser has attorned, is payable to and recoverable by the mortgagee or vendor from the tenant or other person liable to pay the same or occupying the land or any part thereof by any remedy, proceeding or claim available as between a landlord and his tenant under the *Landlord and Tenant Ordinance*.

Second mortgages, etc.

(4) A second or subsequent mortgagee may exercise the rights conferred by this section only with the consent in writing of all prior mortgagees, or, in the absence of such consent, only where all moneys, other than original principal, due and payable under prior mortgages and all taxes on land are satisfied.

Vendors

(5) A vendor may exercise the rights conferred by this section only with the consent in writing of all prior mortgages and vendors, or, in the absence of such consent, only

where all moneys, other than original principal, due and payable under prior mortgages and agreements of sale and all taxes on the land are satisfied.

(6) No mortgagee or vendor acting under this section is subject to the liabilities of a mortgagee in possession.

Not subject to liabilities of mortgagee in possession

(7) Goods and chattels distrained under this section shall be sold in the same manner as those distrained and sold for rent by a landlord under the *Landlord and Tenant Ordinance*.

Sale of goods and chattels

(8) This section applies to the personal representatives, successors and assigns of a mortgagee or vendor and applies to mortgages and agreements of sale made before as well as after the passing of this Ordinance. R.O. 1958, c. 32, s. 8.

Application

8. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20, s. 9(6).

CHAPTER D-7

DOG ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Dog Ordinance*. R.O. Short title
1958, c. 33, s. 1.

INTERPRETATION

- 2.** (1) In this Ordinance Definitions
- “dog” includes a male or female dog and an animal that is a “dog”
cross between a dog and a wolf;
- “municipality” means a municipality as defined in the “municipality”
Municipal Ordinance;
- “muzzle” means to secure a dog’s mouth in such a fashion “muzzle”
that it cannot bite anything;
- “officer” means a person appointed by the Commissioner to “officer”
carry out the provisions of this Ordinance and any member
of the Royal Canadian Mounted Police;
- “owner” means a person who owns, harbours, possesses or has “owner”
control or custody of a dog;
- “run at large” means to run off the premises of the owner “run at large”
either when the dog is not muzzled or when the dog is not
under the control of any person. R.O. 1958, c. 33, s. 2.

OFFICERS

3. (1) The Commissioner may appoint any person to carry Appointment of
out the provisions of this Ordinance. R.O. 1958, c. 33, s. 3. officers

GENERAL PROVISIONS

- 4.** (1) No owner shall allow a dog to remain unfed or Feed and water
unwatered for a sufficient period either to amount to cruelty
or to cause the dog to become a nuisance. R.O. 1958, c. 33, s. 4.
- 5.** (1) No person shall punish or abuse a dog in a manner Punishment
or to an extent that is cruel or unnecessary. R.O. 1958, c. 33, s.
5.
- 6.** (1) No owner shall permit a dog to run at large Running at large

- (a) within an area that may be defined by the Commissioner;
- (b) contrary to a by-law made by the council of a municipality;
- (c) that is of a vicious temperament or dangerous to the public safety; or
- (d) while in heat.

(2) An officer may seize or kill a dog found running at large contrary to paragraph (1)(c) or (1)(d). R.O. 1958, c. 33, s. 6.

Dogs in harness

7. (1) No person shall have a dog in harness within any settlement or within one-half mile of any settlement in the Territory unless the dog has a muzzle or is under the custody and control of a person over sixteen years of age who is capable of ensuring that the dog will not harm the public or create a nuisance.

Driving dogs on sidewalks

(2) No person shall drive a dog or dog team on a sidewalk situated on the street or road of a settlement.

(3) This section does not apply in a municipality. R.O. 1958, c. 33, s. 7.

SEIZURE

Seizure

8. (1) An officer may seize a dog from a person whom he finds violating this Ordinance.

Recovery by owner

(2) Subject to subsection (6), an officer who has seized a dog under subsection (1) shall restore possession of the dog to the owner thereof where

- (a) the owner claims the dog within five days after the date of seizure; and
- (b) the owner pays to the officer all expenses incurred in securing, caring for and feeding the dog.

Sale by public auction

(3) Where, at the end of five days, the dog has not been claimed by the owner under subsection (2), the officer may sell the dog at public auction.

(4) The proceeds of the sale of a dog by public auction shall be distributed in the following manner:

- (a) all expenses incurred in securing, caring for and feeding the dog shall be paid to the officer;
- (b) the expenses of the public auction shall be paid; and
- (c) the balance, if any, shall be paid to the owner.

(5) Where a dog has not been claimed within five days after seizure under subsection (2) and no bid has been received at a sale by public auction, the officer may destroy or dispose of the dog as he sees fit at any time after the auction and no damages or compensation may be recovered on account of its destruction or disposal by the officer.

Where dog not sold

(6) Where, in the opinion of the officer, a dog seized under this section is injured or should be destroyed without delay for humane reasons or for reasons of safety, the officer may destroy the dog as soon after seizure as he thinks fit without permitting any person to claim the dog or without offering it for sale by public auction and no damages or compensation may be recovered on account of its destruction by the officer.

Destruction of injured dogs

(7) Where the seizure of a dog is made for contravention of a by-law respecting dogs passed by a council of a municipality, the provisions of the by-law respecting the impounding, selling or killing of dogs shall apply instead of the provisions of this section. R.O. 1958, c. 33, s. 8.

By-laws of municipality

9. (1) For the purposes of this section it is declared to be a nuisance where in the vicinity of any hospital, an owner permits his dog to howl or make other noises which disturb the peace and repose of patients in such hospital.

Nuisance

(2) Upon complaint in writing signed by two members of the staff of a hospital setting forth the circumstances constituting a nuisance, an officer may, by notice in writing served on the person alleged to be responsible for the nuisance, require that the nuisance be abated within forty-eight hours from the time of service of the notice.

Complaint by two members of hospital staff

(3) Where any person

- (a) is responsible for a nuisance under this section,
- (b) has been served with a notice under subsection (2), and
- (c) has failed to comply with the notice by abating the nuisance within forty-eight hours of the time of service of the notice,

such a person is guilty of an offence.

(4) On any prosecution under this section the evidence of two members of the staff of a hospital to the effect that the peace and repose of patients therein have been disturbed by noises apparently made by a dog kept by the person accused, shall be *prima facie* evidence that the accused is guilty of a nuisance and shall place upon the accused the burden of proof. R.O. 1958, c. 33, s. 9.

Burden of proof

PROTECTION OF OTHER ANIMALS FROM DOGS

Destruction of dogs pursuing etc., certain animals

10. (1) A person may kill a dog that is running at large in the act of pursuing, worrying, injuring or destroying cattle, horses, sheep, pigs or poultry. R.O. 1958, c. 33, s. 10.

Proceedings against owner

11. (1) On receiving a complaint made under oath that an owner has a dog that has, while running at large, within the preceding three months pursued, worried, injured or destroyed any cattle, horses, sheep, pigs or poultry, the justice may issue a summons directed to the owner of the dog requiring the owner to appear before him at a time and place therein stated to answer the complaint.

Order

(2) Upon summary conviction on the evidence of one or more credible witnesses other than the complainant, the justice may make an order for the destruction of the dog within three days and where the dog is not destroyed pursuant to the order, the justice may in his discretion impose a fine not exceeding twenty dollars upon the owner. R.O. 1958, c. 33, s. 11.

Action for damages not barred

12. (1) No conviction or order under section 11 shall bar the owner of cattle, horses, sheep, pigs or poultry from bringing an action for the recovery of damages for injury done thereto by a dog. R.O. 1958, c. 33, s. 12.

Nature of proof in civil action

13. (1) It is not necessary for the plaintiff in an action referred to in section 12 to prove that the defendant knew of the dog's propensity to pursue, worry, injure or destroy animals and the defendant's liability shall not depend upon previous knowledge of that propensity. R.O. 1958, c. 33, s. 13.

OFFENCES AND PENALTIES

Offences and penalties

14. (1) Every person who violates any provision of this Ordinance commits an offence and is liable upon summary conviction to a fine not exceeding one hundred dollars or to imprisonment for a term not exceeding thirty days. R.O. 1958, c. 33, s. 14.

REGULATIONS

Regulations

15. (1) The Commissioner may make regulations for carrying out the purposes and provisions of this Ordinance. R.O. 1958, c. 33, s. 15.

CHAPTER E-1

ELECTIONS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Elections Ordinance*. Short title
R.O. 1958, c. 34, s. 1.

INTERPRETATION

2. (1) In this Ordinance Definitions
“election” means an election of members to the Council of “election”
the Yukon Territory,
“polling division” means a polling division as defined in the “polling divi-
sion”
Canada Elections Act. R.O. 1958, c. 34, s. 2.

APPLICATION OF CANADA ELECTIONS ACT

3. (1) The *Canada Elections Act* applies to elections as Application of
Canada Elections
Act
provided in that Act. R.O. 1958, c. 34, s. 3.

ELECTORAL DISTRICTS

4. (1) There shall be seven electoral districts as described Electoral
districts
in Schedule I. R.O. 1958, c. 34, s. 4; 1960 (3rd) c. 4, s. 1.

QUALIFICATIONS AND DISQUALIFICATIONS OF ELECTORS

5. (1) Except as provided in this Ordinance, the *Canada* Qualifications of
electors
Elections Act and the *Yukon Act*, every natural person is
qualified to vote in the polling division in which he ordinarily
was resident on the date of the issue of the writ ordering
an election, if he

- (a) is of the full age of nineteen years or attains that age on or before polling day of the election;
- (b) is a Canadian citizen or other British subject;
- (c) has been ordinarily resident in the Territory for the twelve months immediately preceding polling day at the election; and
- (d) at a by-election only, continues to be ordinarily resident in the electoral district until polling day at the by-election. R.O. 1958, c. 34, s. 5; 1960 (3rd) c. 4, s. 2; 1970 (3rd) c. 5, s. 1.

Disqualification
of electors

6. (1) The following persons are disqualified from voting at an election:

- (a) the returning officer for each electoral district during his term of office, except when there is an equality of votes on the official addition of the votes or on a recount;
- (b) every judge;
- (c) every person undergoing punishment as an inmate in any penal institution for the commission of any offence;
- (d) every person who is restrained of his liberty of movement or deprived of the management of his property by reason of a mental disease; and
- (e) every person who has committed at an election of members to the Council of the Yukon Territory or at an election of members to serve in the House of Commons of Canada an offence that is a corrupt or illegal practice within the meaning of the *Canada Elections Act* and who has been found guilty of such offence by a court of competent jurisdiction, from the time of commission of such offence for a period of seven years thereafter in the case of an offence that is a corrupt practice, and from the time of commission of such offence for a period of five years thereafter in the case of an offence that is an illegal practice. R.O. 1958, c. 34, s. 6.

RULES AS TO RESIDENCE OF ELECTORS

Meaning of
"ordinarily
resident" and
"ordinarily
resided"

7. (1) The following rules apply to the interpretation of the words "ordinarily resident" and "ordinarily resided" in respect of all matters pertaining to the right of an elector to vote in an election:

To consider facts
of case

- (a) subject to the other provisions of this section, the question as to where a person is or was ordinarily resident at any material time or during any material period shall be determined by reference to all the facts of the case;

Place of ordi-
nary residence is
his home

- (b) the place of ordinary residence of a person is, generally, that place which has always been, or which he has adopted as, the place of his habitation or home to which, when away from, he intends to return and, specifically, where a person usually sleeps in one place and has his meals or is employed in another place, the place of his ordinary residence is where the person sleeps;

- (c) a person can have only one place of ordinary residence and it cannot be lost unless or until another is gained ; One place of residence only
- (d) a person's place of ordinary residence is, generally, where his family is but, where he is living apart from his family and intends to live so apart from it in another place, the place of ordinary residence of such person is that other place ; Place of residence in relation to family
- (e) temporary absence from a place of ordinary residence does not cause a loss or change of place of ordinary residence ; Temporary residence
- (f) for the purpose of a general election, every person shall be deemed to continue until polling day to ordinarily reside in the polling division in which he was ordinarily resident at the date of the issue of the writ of election, and no actual change of residence during the intervening period shall deprive him of his right to vote in such polling division or entitle him to vote in any other polling division, unless he is one of the persons described in paragraph (g) and exercises his rights thereunder, in which event he is not to be entitled to vote in the polling division in which he was ordinarily resident at the date of the issue of the writ of election ; Residence at date of issue of writ of election to govern
- (g) for the purpose of a general election, any of the following persons who, between the date of the issue of the writ of election and polling day, changes his place of ordinary residence from one electoral district to another is, if otherwise qualified and he so elects, entitled to vote in the polling division in which he is ordinarily resident at the time of his application, if Clergymen and teachers
- (i) being a minister, priest or ecclesiastic of any religious faith or denomination, he is in charge of or permanently attached to an established place of worship or recognized mission of his church situate in the electoral district to which he is removed, or
- (ii) being a teacher, he is employed under a contract with the appropriate educational authority and is engaged in teaching at a school situated in the electoral district to which he is removed ;
- (h) notwithstanding anything in this Ordinance, for the purpose of a general election, a person who, on the date of the issue of the writ of election, is duly registered and in attendance at a recognized educational institution and for such purpose resides outside the polling division in which he ordinarily resides is, if he is otherwise qualified as an elector, entitled to vote in Students

the polling division in which he ordinarily resides and, if the institution is in the Territory, he is entitled to vote in the polling division in which he resides at the date of the issue of the said writ or the polling division in which he ordinarily resides as he may elect ;

Temporary workers

- (i) subject to paragraph (j), a person shall be deemed to be ordinarily resident, on the date of the issue of the writ ordering a general election, in a polling division in which he is temporarily resident while temporarily employed in the pursuit of his ordinary gainful occupation and, if he is otherwise qualified as an elector, is entitled to vote in that polling division at the election as long as he is still temporarily residing therein on polling day while still temporarily employed in the pursuit of his ordinary gainful occupation ;

Persons temporarily engaged in public works

- (j) no person shall, for the purpose of this Ordinance, be deemed to be ordinarily resident, at the date of the issue of the writ ordering an election in such district, in an electoral district to which he has come for the purpose of engaging temporarily in the execution of any federal or territorial public work, or as a resident in any camp temporarily established in connection with any such public work under federal or territorial government control and located in such electoral district ;

Persons residing in hostels, refuges, etc.

- (k) no person shall, for the purpose of this Ordinance, be deemed to be ordinarily resident, at the date of the issue of the writ of election, in lodgings, hostels, refuges or similar institutions conducted for charitable or semi-charitable purposes, unless he has been in continuous residence in such lodgings, hostels, refuges or similar institutions for at least ten days immediately preceding the date of the issue of such writ ;

Persons residing in sanatorium, etc.

- (l) a person who, for at least ten days immediately preceding the date of the issue of a writ of election, has been in continuous residence in a sanatorium, a chronic hospital or a similar institution for the treatment of tuberculosis or other chronic diseases shall, for the purposes of this Ordinance, be deemed to be ordinarily resident on such date, in the sanatorium, chronic hospital or similar institution ; and

Persons in armed forces

- (m) a person shall not be deemed to have lost his place of ordinary residence in the Territory by reason only of the fact that he has been absent from such place of ordinary residence while serving in the Canadian Forces or in any other of Her Majesty's Army, Navy or Air Forces. R.O. 1958, c. 34, s. 7.

QUALIFICATIONS AND DISQUALIFICATIONS OF CANDIDATES

8. (1) Subject to section 9, any person who is qualified to vote at an election is eligible to be nominated and elected as a member of the Council for an electoral district notwithstanding he or she is not ordinarily resident in that electoral district.

Qualifications of
Candidates

(2) No person may be nominated as a candidate for election in more than one electoral district at the same election. R.O. 1958, c. 34, s. 8; 1960 (3rd) c. 4, s. 3; 1966 (1st) c. 8, s. 1.

9. (1) Subject to subsection (2), the following persons are not eligible to be nominated or elected as members of the Council:

Disqualifications
of candidates

- (a) every person who, directly or indirectly, alone or with any other person, by himself or by the interposition of any trustee or third party, is holding, enjoying, undertaking or executing any contract or agreement, express or implied, with or for the Territory or with or for any of the officers of the Territory, for which any public money of the Territory is to be paid during the time he is so holding, enjoying, undertaking or executing;
- (b) every person who is
 - (i) a member of the House of Commons of Canada,
 - (ii) a member of the legislature of any province, or
 - (iii) a member of the Council of the Northwest Territories,
 during the time he is such a member; and
- (c) every person accepting or holding any office, commission or employment, permanent or temporary, in the service of the Government of Canada or the Territory, at the nomination of the Crown or at the nomination of any of the officers of the Government of Canada or the Territory, to which any salary, fee, wages, allowance, emolument or profit of any kind is attached during the time he is so holding any such office, commission or employment.

(2) Subsection (1) does not render the following persons ineligible to be nominated or elected as members of the Council:

- (a) a member of Her Majesty's Forces who is on active service as a consequence of war;
- (b) a shareholder in any incorporated company having a contract or agreement with the Territory, except any company which undertakes a contract for the building of any public work;

- (c) a person on whom the completion of any contract or agreement, express or implied, devolves by descent or limitation, or by marriage, or as devisee, legatee, executor or administrator, until twelve months after it has so devolved upon him;
- (d) a contractor for a loan of money or of securities for the payment of money to the Government of the Territory under the authority of the Commissioner in Council, after public competition, or respecting the purchase or payment of the public stock or debentures of the Territory on terms common to all persons;
- (e) a member of the reserve forces of the Canadian Forces who is not on full-time service other than active service as a consequence of war;
- (f) a justice of the peace, judge of the juvenile court or a person having an appointment made by the Commissioner by reason of which such person is entitled to charge and retain a fee; or
- (g) a member of the Council appointed by the Commissioner to assist him in the administration of the government of the Territory. R.O. 1958, c. 34, s. 9; 1970 (3rd) c. 5, s. 2, 3.

10. (1) No person who is ineligible to be a candidate at an election is eligible to be elected or to be or sit as a member of the Council. R.O. 1958, c. 34, s. 10.

YUKON COUNCIL

Resignation of seat

11. (1) A member of the Council may resign his seat as such member

- (a) by declaring openly in his place in Council his intention so to resign, in which case the Clerk of the Council shall record such intention in the journals of the Council and the seat of such member shall forthwith become vacant, or
- (b) by causing to be delivered to the Commissioner a written statement under his hand attested by two witnesses, declaring his intention so to resign, and upon receipt thereof by the Commissioner the seat of such member shall become vacant.

Right to resign

(2) No person shall be deemed to be a member of the Council so as to be entitled to resign pursuant to this Ordinance until he has been declared elected as such member.

Proceedings unaffected by resignations

(3) The resignation of a member shall not affect the conduct or result of any proceedings that are then pending or

that may thereafter be taken under any law in force in the Territory respecting controverted elections. R.O. 1958, c. 34, s. 11.

12. (1) Where a vacancy in the Council is created in any manner other than by resignation as provided in paragraph 11(1)(b), the Speaker of the Council shall notify the Commissioner of such vacancy, but where there is no Speaker or the Speaker is absent from the Territory or incapacitated, or is himself the member whose seat is vacated, any two members of the Council may notify the Commissioner of such vacancy. R.O. 1958, c. 34, s. 12.

Notification to
Commissioner of
vacancy

13. (1) Where the Commissioner is notified of a vacancy in the Council in accordance with this Ordinance, he shall forthwith issue a warrant to the Chief Electoral Officer of Canada for the issue of a writ for the election of a member to fill such vacancy.

Issue of warrant

(2) No warrant shall be issued under subsection (1) where the vacancy in the Council occurs within six months of the expiry of the time limited for the duration of the Council. R.O. 1958, c. 34, s. 13.

Exception

14. (1) The Chief Electoral Officer of Canada shall issue a writ for the election of a member to fill the vacancy within two months after receiving the warrant of the Commissioner.

Issue of writ

(2) Where the Council is dissolved after the issue of a writ under this section, such writ shall be deemed to have been superseded and withdrawn. R.O. 1958, c. 34, s. 14.

Writ superseded
and withdrawn

15. (1) There shall be paid to each member of the Council an indemnity calculated at the rate of eight thousand dollars per annum.

Council indem-
nities

(2) In addition to the amount provided in subsection (1), there shall be paid to each member of Council representing the electoral districts of

Duty expenses

- (a) Carmacks-Kluane Lake,
- (b) Dawson,
- (c) Mayo, and
- (d) Watson Lake,

an allowance in respect of duty expenses calculated at the rate of two thousand dollars per annum, and to each member of Council representing the electoral districts of

- (e) Whitehorse East,

- (f) Whitehorse North, and
- (g) Whitehorse West,

an allowance in respect of duty expenses calculated at the rate of one thousand dollars per annum.

Date (3) For the purposes of this section, a person shall be deemed to have become a member of the Council on the day last fixed for the election of a member for the electoral district represented by him, and if re-elected, he shall be deemed to have served continuously. 1971 (1st) c. 18, s. 1.

Salaries. **16.** (1) In addition to the amounts provided in section 15, there shall be paid

Speaker (a) to the member of the Council appointed Speaker of the House by the Council a salary calculated at the rate of one thousand five hundred dollars per annum,

Deputy Speaker (b) to the member of the Council appointed Deputy Speaker of the House and Chairman of Committees by the Council, a salary calculated at the rate of one thousand dollars per annum, and

Financial Advisory member (c) to each member of the Council appointed to the Advisory Committee on Finance by the Commissioner on the recommendation of the Council, a salary calculated at the rate of one thousand dollars per annum.

Continuous salary (2) For the purposes of this section, members of the Council shall be entitled to the salary provided from the day of their appointment and to continue until such time as the member vacates his seat on the Council or is replaced by another appointment, providing that if a member is re-elected at a general election and is reappointed at the first Session of the Council thereafter, he shall be deemed to have served continuously. 1971 (1st) c. 18, s. 1.

When payable **17.** (1) The indemnities, duty expenses and salaries set out in sections 15 and 16 shall be payable every fourteen days. 1971 (1st) c. 18, s. 1.

Allowances for travel expenses **18.** (1) There shall be paid to every member of the Council expense allowances as follows:

- (a) twenty-five dollars per day to members of the Council who are absent from their normal place of residence attending
 - (i) Sessions of the Council,
 - (ii) meetings of committees of the Council, or
 - (iii) meetings at the request of the Council

within the Territory, from the day immediately prior to the Session or meeting until and including the day immediately following such Session or meeting ;

- (b) thirty-five dollars per day to members of the Council attending
 - (i) meetings of committees of the Council, or
 - (ii) meetings at the request of the Council outside the Territory, from the day of departure from their normal place of residence until and including the day of return ; and
- (c) travel allowances to and from
 - (i) Sessions of the Council,
 - (ii) meetings of committees of the Council, or
 - (iii) meetings at the request of the Council not exceeding seventeen cents per mile.

(2) For the purposes of this section, members of the Council elected by the Council to the Executive Committee shall be deemed to reside at the seat of government. 1971 (1st) c. 18, s. 1.

19. (1) There shall be paid to each member of the Council who attends meetings of committees of the Council or meetings at the request of the Council other than Sessions of the Council or meetings of the Advisory Committee on Finance, an indemnity of twenty-five dollars per day. 1971 (1st) c. 18, s. 1. Daily indemnity

SCHEDULE I

The following are the electoral districts in the Yukon Territory:

ELECTORAL DISTRICT OF DAWSON

The Electoral District of Dawson comprises all that portion of the Yukon Territory lying west of the meridian in longitude 138° west and north of the parallel of latitude 63° north.

ELECTORAL DISTRICT OF MAYO

The Electoral District of Mayo comprises all that portion of the Yukon Territory lying east of the meridian in longitude 138° west and north of the parallel of latitude 63° north.

ELECTORAL DISTRICT OF CARMACKS-KLUANE LAKE

The Electoral District of Carmacks-Kluane Lake comprises all that portion of the Yukon Territory lying south of the parallel of latitude 63° north and west of a line described as commencing at the intersection of the meridian in longitude 135° west with the parallel of latitude 63° north; thence south along said meridian to its intersection with the parallel of latitude $61^{\circ} 30'$ north; thence westerly along the last said parallel to its intersection with the meridian in longitude 136° west; thence south along the last said meridian to its intersection with the south boundary of the Yukon Territory.

ELECTORAL DISTRICT OF WATSON LAKE

The Electoral District of Watson Lake comprises all that portion of the Yukon Territory lying south of the parallel of latitude 63° north and east of a line described as commencing at the intersection of the said parallel with the meridian in longitude 135° west; thence south along the said meridian to its intersection with the parallel of latitude $61^{\circ} 30'$ north; thence easterly along the last said parallel to its intersection with the meridian in longitude 134° west; thence south along the last said meridian to its intersection with the south boundary of the Yukon Territory.

ELECTORAL DISTRICT OF WHITEHORSE NORTH

The Electoral District of Whitehorse North comprises all that portion of the Yukon Territory lying within the bounds of the area enclosed by a line described as commencing at the intersec-

tion of the parallel of latitude $61^{\circ} 30'$ north with the left bank of the Yukon River; thence southerly along said bank and the west bank of Lake Laberge to the intersection of the left bank of the Yukon River with the easterly production of the south boundary of Lot 10, Group 804; thence westerly along the said production and the westerly production of said boundary to the centre line of the right-of-way of the Two-Mile Hill Road; thence northerly along the said centre line to a parallel of latitude passing through the intersection of said centre line with the easterly limit of the right-of-way of the Alaska Highway; thence westerly along said parallel to its intersection with the meridian in longitude 136° west; thence north along said meridian to its intersection with the parallel of latitude of $61^{\circ} 30'$ north; thence easterly along the last said parallel to the point of commencement.

ELECTORAL DISTRICT OF WHITEHORSE EAST

The Electoral District of Whitehorse East comprises all that portion of the Yukon Territory lying within the bounds of the area enclosed by a line described as commencing at the intersection of the parallel of latitude $61^{\circ} 30'$ north with the meridian in longitude 134° west; thence south along said meridian to its intersection with the south boundary of the Yukon Territory; thence westerly along said boundary to its intersection with the meridian in longitude 135° west; thence north along said longitude to its intersection with the centre line of the main line of the White Pass and Yukon Railway; thence northerly along said centre line to its intersection with the southerly production of the centre line of the right-of-way of Fourth Avenue of the City of Whitehorse; thence northerly along said production and said centre line of Fourth Avenue to its intersection with the centre line of the right-of-way of the Two-Mile Hill Road; thence along the last said centre line to its intersection with the westerly production of the south boundary of Lot 10, Group 804; thence easterly along said production and the easterly production of said boundary to its intersection with the left bank of the Yukon River; thence northerly along said bank and the west bank of Lake Laberge to the intersection of the left bank of the Yukon River with the parallel of latitude $61^{\circ} 30'$ north; thence easterly along said parallel to the point of commencement.

ELECTORAL DISTRICT OF WHITEHORSE WEST

The Electoral District of Whitehorse West comprises all that portion of the Yukon Territory lying within the bounds of the area enclosed by a line described as commencing at the intersec-

tion of the centre line of the right-of-way of the Two-Mile Hill Road with the easterly limit of the right-of-way of the Alaska Highway; thence southerly along said centre line to the centre line of the right-of-way of Fourth Avenue of the City of Whitehorse; thence southerly along the last said centre line and its production southerly to its intersection with the centre line of the main line of the White Pass and Yukon Railway; thence southerly along the last said centre line to its intersection with the meridian in longitude 135° west; thence south along said longitude to its intersection with the south boundary of the Yukon Territory; thence westerly along said boundary to its intersection with the meridian in longitude 136° west; thence north along said meridian to its intersection with a parallel of latitude passing through the point of commencement; thence easterly along said parallel to the point of commencement." R.O. 1958, c. 34, Sched.; 1960 (3rd) c. 4, s. 4.

CHAPTER E-2

ELECTRICAL PROTECTION ORDINANCE

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|---|--|
| <p>1. This Ordinance may be cited as the <i>Electrical Protection Ordinance</i>. 1967 (1st) c. 2, s. 1.</p> | <p>Short title</p> |
| <p>2. (1) In this Ordinance
 “Code” means the Canadian Electrical Code Part 1 referred to in section 6;</p> | <p>Definitions
 “Code”</p> |
| <p>“electrical installation” means the installation of any system of wiring in or upon any land, building or premises from the point where electrical power or energy is delivered therein or thereon to the point where such power or energy can be used and shall include electrical equipment and any wiring connected therewith, and the maintenance, alteration, extension and repair of such equipment or wiring;</p> | <p>“electrical installation”</p> |
| <p>“inspection area” means any area designated as an inspection area under section 4;</p> | <p>“inspection area”</p> |
| <p>“owner” when referring to electrical equipment or wiring includes a lessee, occupant and person in charge of premises;</p> | <p>“owner”</p> |
| <p>“prescribed” means prescribed by the regulations;</p> | <p>“prescribed”</p> |
| <p>“qualified person” means any person who is designated from time to time by the Commissioner as a qualified person for the purposes of this Ordinance and includes any person acting under the direction of a qualified person.</p> | <p>“qualified person”</p> |
| <p>(2) Unless the context otherwise requires, words and expressions used in this Ordinance have the same meaning as in the Code. 1967 (1st) c. 2, s. 2.</p> | <p>Meaning of terms</p> |
| <p>3. (1) The Commissioner may appoint a Chief Inspector and one or more inspectors to carry out the provisions of this Ordinance. 1967 (1st) c. 2, s. 3.</p> | <p>Appointment of inspectors</p> |
| <p>4. (1) The Commissioner may designate any area in the Territory as an inspection area. 1967 (1st) c. 2, s. 4.</p> | <p>Inspection area</p> |
| <p>5. (1) The Chief Inspector or any inspector may, in an inspection area,</p> | <p>Powers of inspectors on inspections</p> |

- (a) at any reasonable time enter and examine any premises and the electrical equipment and wiring in or upon such premises;
- (b) place in operation or stop or cause to be placed in operation or stopped any electrical equipment that is being inspected;
- (c) except in the case of a single family dwelling unit, require the preparation and production to him of plans and specifications of the installation of the electrical equipment and wiring that are satisfactory to him; and
- (d) remove or cause to be removed any obstruction that may prevent a thorough inspection. 1967 (1st) c. 2, s. 5.

Standards for installations

6. (1) Subject to subsection (2) the Canadian Electrical Code Part I is the standard to which all installations of electrical equipment wiring shall conform.

Exception

(2) Where in the opinion of an inspector the installation or use of electrical equipment or wiring contrary to the requirements of the Code would not create an undue hazard to life or property, he may permit such installation or use. 1967 (1st) c. 2, s. 6.

Inspector's powers where installation dangerous

7. (1) Where in the opinion of an inspector any electrical equipment or wiring constitutes a hazard to life or property, he may

- (a) order the owner of the electrical equipment or wiring to put it in a safe condition within such time as the inspector prescribes;
- (b) order the owner not to use electrical energy in such electrical equipment or wiring until it is put in a condition satisfactory to the inspector;
- (c) order the adoption of such practices as will in his opinion make such electrical equipment or wiring safe for use;
- (d) by notice in writing, prohibit all unqualified persons from working on or in proximity to any electrical equipment or wiring while it is alive;
- (e) by notice in writing, prohibit all unqualified persons from entering or remaining in or upon premises where there is such electrical equipment or wiring; and
- (f) order the authority that supplies electric energy to withhold the supply of that energy to the premises in or upon which such electrical equipment or wiring is found until it is put in a condition satisfactory to the inspector. 1967 (1st) c. 2, s. 7.

8. (1) In an inspection area, plans and specifications for

Plans to be submitted for approval

(a) the installation of electrical equipment and wiring in any public, industrial, commercial or other building in which the safety of the public is concerned.

(b) the installation of any generator, transformer, switch-board, large storage battery or other larger electrical equipment, and

(c) such other installations as may be prescribed,

shall be submitted to an inspector by or on behalf of the owner of the premises in or upon which it is proposed to make any such installation, and work shall not be commenced on the installation until the inspector has approved the plans and specifications in writing.

(2) Plans and specifications submitted under subsection (1) shall not be approved by an inspector until the prescribed fees have been paid by or on behalf of the owner. 1967 (1st) c. 2, s. 8.

Fees paid before approval

9. (1) Subject to subsection 6(2) no person shall, unless he holds a permit issued under subsection (2), install, alter, extend or repair any electrical equipment or wiring except in the manner and in accordance with the standard set forth in the Code.

Installation and repairs to be in accordance with Code

(2) An inspector may issue a permit to install, alter, extend or repair any electrical equipment or wiring to a person who

Permits for installation or repairs

(a) makes application in the prescribed form; and

(b) pays the prescribed fee

(3) A copy of the permit referred to in subsection (2) shall be posted and kept in a conspicuous place on the site of the work until all the work authorized by the permit has been inspected and approved by an inspector. 1967 (1st) c. 2, s. 9.

Copy of permit to be displayed

10. (1) A person who does electrical work in an inspection area pursuant to a permit issued under section 9 shall give sufficient notice to an inspector of the time when the work may be conveniently inspected at any stage in its progress.

Notice to be given for inspection

(2) No electrical equipment or wiring in an inspection area shall be made inaccessible by any person until it has been inspected and approved in writing by an inspector.

Installation to remain accessible until approved

(3) The fees prescribed for the inspection of the installation of electrical equipment and wiring shall be paid by the person by whom the equipment and wiring was installed prior to completion of the inspection. 1967 (1st) c. 2, s. 10.

Fees

Inspector shall permit supply of electricity

11. (1) Where an inspector is satisfied that any installation, alteration or extension of, or repair to, any electrical equipment or wiring has been carried out in accordance with this Ordinance, he shall give permission to the appropriate supply authority to supply electric energy to such equipment or wiring. 1967 (1st) c. 2, s. 11.

No electricity without permission

12. (1) No supply authority shall supply any electric energy to any electrical equipment or wiring in or upon any premises in an inspection area unless permission has been given by an inspector under section 11 to supply electric energy to such equipment or wiring. 1967 (1st) c. 2, s. 12.

Appeal

13. (1) Where a person disputes an order or decision of an inspector that

- (a) disapproves in whole or in part any plans and specifications submitted to the inspector,
- (b) requires the alteration of any electrical equipment or wiring,
- (c) requires the cutting off of the supply of electric energy to any electrical equipment or wiring, or
- (d) refuses to permit the installation or operation of any electrical equipment or wiring,

he may appeal to the Chief Inspector.

How appeal commenced

(2) An appeal may be commenced by forwarding, by registered mail, a statement in writing of the matter complained of to the Chief Inspector within ten days after the day on which the order or decision appealed from was made, or within such further time as the Chief Inspector may allow.

Disposition of appeal

(3) The Chief Inspector may amend, vary or revoke any order or decision appealed from under subsection (1), and his decision is final and binding. 1967 (1st) c. 2, s. 13.

Regulations

- 14. (1)** The Commissioner may make regulations,
- (a) respecting the duties of the Chief Inspector and inspectors;
 - (b) respecting applications for permits and inspections;
 - (c) prescribing the forms to be used under this Ordinance;
 - (d) prescribing the fees to be paid under this Ordinance; and
 - (e) generally for carrying out the purposes and provisions of this Ordinance. 1967 (1st) c. 2, s. 14.

15. (1) The Chief Inspector shall, prior to the first day of September in each year, submit a report to the Commissioner of the administration of this Ordinance during the twelve-month period ending on the thirty-first day of July in that year. 1967 (1st) c. 2, s. 15.

Report to
Commissioner

16. (1) Any person who contravenes section 8, subsection 9(1) or subsection 9(3), section 10 or section 12, or refuses or neglects to obey an order of the Chief Inspector or an inspector made pursuant to this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars, and in default of payment, to imprisonment for a term not exceeding one month. 1967 (1st) c. 2, s. 16.

Offence and
penalty

CHAPTER E-3

**ELEVATOR AND FIXED CONVEYANCES
ORDINANCE**

1. This Ordinance may be cited as the *Elevator and Fixed Conveyances Ordinance*. 1971 (1st) c. 5, s. 1. Short title

2. (1) In this Ordinance Definitions

“fixed conveyance” means a fixed system or device for conveyance to which this Ordinance applies; “fixed conveyance”

“inspector” means an inspector appointed under section 4; “inspector”

“owner” includes a lessee of a fixed conveyance. 1971 (1st) c. 5, s. 2. “owner”

3. (1) This Ordinance applies to passenger elevators, freight elevators, dumbwaiters, escalators, inclined passenger lifts, belt lifts, aerial tramways, chairlifts, ski tows, rope tows, mechanized parking garages, speed-walks and speedramps. Application of Ordinance

(2) The Commissioner may designate any fixed conveyor system, whether vertical, inclined or horizontal, to be a fixed conveyance to which this Ordinance applies or does not apply. 1971 (1st) c. 5, s. 3.

4. (1) The Commissioner may appoint inspectors for the purposes of this Ordinance. 1971 (1st) c. 4. Inspector

5. (1) An inspector may, in the execution of his duties under this Ordinance and for enforcing this Ordinance and the regulations, Powers of inspector

- (a) gain access to and inspect at all reasonable times by day or night any fixed conveyance.
- (b) enter, pass over or through any land, building or premises for the purpose of this Ordinance,
- (c) demand the production of any register, certificate, plan or document pertaining to any fixed conveyance and may examine and copy the same,
- (d) make such examination and inquiry as may be necessary to ascertain whether the requirements of this Ordinance and the regulations are being complied with,

- (e) for the purpose of any investigation, inquiry or examination made by him under the authority of this Ordinance, administer an oath and summon any person to give evidence and produce plans, specifications, files and records, and
- (f) exercise such other powers as are necessary for carrying out the provisions of this Ordinance and the regulations.

(2) All plans, specifications, files and records produced and inspected pursuant to paragraph (1)(c) or (1)(e) shall be treated by the inspector as confidential, except for the purpose of this Ordinance.

(3) The owner of a fixed conveyance and his agents and servants shall furnish any necessary assistance required by an inspector for the exercise of his duties under this Ordinance and the regulations.

(4) Where a fixed conveyance is installed in a private residence and an inspector has inspected the completed installation and found it to be in accordance with this Ordinance and the regulations, he will give his approval thereof in writing and thereafter the Ordinance does not apply to that fixed conveyance, except where

- (a) the owner or occupier of the residence requests an inspection;
- (b) any alteration is proposed to be made to the conveyance, or
- (c) the Commissioner orders an inquiry under section 14, 1971 (1st) c. 5, s. 5.

Certificate of appointment of inspector

6. (1) An inspector shall be furnished with a certificate of his appointment and shall, if required, produce his certificate on applying for admission to any premises. 1971 (1st) c. 5, s. 6.

Persons accompanying inspector

7. (1) When he deems it necessary, an inspector may take with him into any premises, an engineer or other specialist. 1971 (1st) c. 5, s. 7.

Waiver of responsibility

8. (1) An inspector or a person lawfully accompanying an inspector is not required to sign or give any release or waiver of responsibility before entering any place pursuant to this Ordinance and any such release is void. 1971 (1st) c. 5, s. 8.

Liability of inspector

9. (1) While acting pursuant to this Ordinance or the regulations, an inspector or a person lawfully accompanying an

inspector is not liable for any injury, loss or damage occasioned thereby. 1971 (1st) c. 5, s. 9.

10. (1) The Commissioner may, subject to the regulations, approve or refuse to approve different types of fixed conveyances and any component parts thereof. Approval of fixed conveyances

(2) Where any type of fixed conveyance or component part submitted for approval requires special examination the person making the submission may be required to supply all the necessary materials, parts, plans and specifications and to pay such fees as may be fixed by regulations.

(3) No person shall

(a) install a fixed conveyance, or

(b) install in or attach to a fixed conveyance any component part,

of a type that the Commissioner has refused to approve. 1971 (1st) c. 5, s. 10.

11. (1) Where an inspector notes any condition that contravenes a regulation or is otherwise inconsistent with good operating practices relating to a fixed conveyance, he may bring the condition to the attention of the owner or his agent, who shall take such remedial action as may be required by the inspector within the specified time. Direction for remedial action

(2) Where an inspector notes an unsafe condition that in his opinion presents an immediate hazard to persons using a fixed conveyance, the inspector may direct that the conveyance be taken out of service until such time as the hazard is removed and the owner or his agent shall comply with the direction of the inspector. 1971 (1st) c. 5, s. 11.

12. (1) A person affected by a decision of an inspector may appeal to the Commissioner. 1971 (1st) c. 5, s. 12. Appeal

13. (1) An owner of a fixed conveyance or his agent shall Notice of accident

(a) notify an inspector as soon as possible after the happening of any accident involving the fixed conveyance that results in death or serious injury or damage to equipment, and

(b) if requested by an inspector, submit as early as possible, a full report in writing of any accident involving the fixed conveyance that results in death or injury or damage to equipment. 1971 (1st) c. 5, s. 13.

Investigation of
accident

14. (1) Any accident involving a fixed conveyance that results in death, injury or damage to equipment may be investigated by an inspector.

(2) The Commissioner may cause an inquiry to be held into any accident involving a fixed conveyance that results in death or injury or damage to equipment. 1971 (1st) c. 5, s. 14.

Protection of
evidence

15. (1) Until permission is received from an inspector, no unauthorized person shall

(a) interfere with the scene of an accident involving a fixed conveyance save to prevent further damage or to remove injured or deceased persons or hazards, or

(b) remove or tamper with any safety device, guard or other protective equipment.

(2) For the purposes of investigation and inquiry and to prevent it being lost or misplaced, an inspector may remove from the scene of an accident any article, part or thing that in his opinion may have caused or contributed in any way to the accident.

(3) The powers given to an inspector by this section shall not be construed as derogating from or interfering with the powers and duties of peace officers and coroners. 1971 (1st) c. 5, s. 15.

Approval of
proposed
alterations

16. (1) Before erecting or altering a fixed conveyance, the owner or his agent shall submit such relevant plans, blueprints, drawings and specifications as may be required by an inspector and no person shall

(a) construct or alter the conveyance, or

(b) commence the construction or alteration, until such time as the plans, blueprints, drawings and specifications have been certified as approved pursuant to subsection (2).

(2) If the plans, blueprints, drawings and specifications provide for the fulfillment of the requirements of this Ordinance and the regulations, an inspector authorized shall certify the plans, blueprints, drawings and specifications as approved. 1971 (1st) c. 5, s. 16.

Posting of
certificate or
licence

17. (1) A certificate or licence issued pursuant to this Ordinance or the regulations shall be posted by the owner or his agent as directed by an inspector. 1971 (1st) c. 5, s. 17.

18. (1) The Commissioner may approve the issuing of notices or bulletins dealing with the use of fixed conveyances and the owner or his agent shall post such notices or bulletins as directed by an inspector. 1971 (1st) c. 5, s. 18. Posting of notices

19. (1) No unauthorized person shall remove, alter or deface any certificate, licence or notice or bulletin posted pursuant to this Ordinance or the regulations. 1971 (1st) c. 5, s. 19. Removal or defacing of bulletins prohibited

20. (1) The Commissioner may make regulations Regulations

- (a) with respect to the construction, maintenance and use of any type or class of fixed conveyance,
- (b) prescribing the nature and frequency of inspections to be made of fixed conveyances or any type or class thereof,
- (c) prescribing the requirements for or the conditions under which approval may be given pursuant to sections 10 and 16,
- (d) prohibiting or restricting the use of any type or class of fixed conveyance, either generally or for particular purposes,
- (e) respecting the issue of certificates and licences, including the conditions under which they may be granted, suspended, revoked or transferred,
- (f) prescribing the fees payable in respect of any approval of plans, blueprints, drawings and specifications, or otherwise, in respect of inspections and in respect of the issue of certificates and licences, and the persons by whom the fees are to be paid,
- (g) respecting such other matters as may be necessary for carrying out the intent of this Ordinance, including the adoption of all or part of any safety code, order, regulations or standard. 1971 (1st) c. 5, s. 20.

21. (1) No prosecution shall be commenced for an offence against this Ordinance, unless it is commenced by Commencement of prosecution

- (a) an inspector;
- (b) a member of the Royal Canadian Mounted Police; or
- (c) any other person authorized in writing by the Commissioner to do so.

(2) No prosecution for an offence against this Ordinance shall be commenced after the expiration of one year from the date of the commission of the offence. 1971 (1st) c. 5, s. 21. Limitation

22. (1) Every person who Offence and penalty

- (a) violates a provision of this Ordinance or of any regulation or rule made thereunder; or
- (b) fails to obey an order or direction given thereunder by the Commissioner or an inspector;

is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars.

Where offence continues

(2) A person who fails to obey a written order or direction given by the Commissioner or an inspector is, in addition to the fine prescribed in subsection (1), liable on summary conviction to a fine not exceeding one hundred dollars for each day on which he fails to obey that order or direction.

Additional penalty where offence dangerous

(3) Where an offence is one that might have endangered the safety of persons or caused serious personal injury or a dangerous accident and was wilfully committed by the act, default or negligence of the person guilty thereof, that person is, upon summary conviction, liable either in substitution for or in addition to any pecuniary penalty that may be imposed, to imprisonment for a term not exceeding three months. 1971 (1st) c. 5, s. 22.

CHAPTER E-4

EMPLOYMENT AGENCIES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Employment Agencies Ordinance*. R.O. 1958, c. 35, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance, "employment agency" means the business of procuring any person for employment in any profession, business, trade, calling, labour, work, service or other means of livelihood or of procuring employment therein for any person. R.S. 1958, c. 35, s. 2. Definition of "employment agency"

EMPLOYMENT AGENCIES

3. (1) No person shall Fees prohibited
(a) carry on an employment agency for a fee or reward,
(b) collect or receive, directly or indirectly, a fee or compensation for sending, persuading, enticing, inducing or causing to be sent from or to any place outside the Territory, or between any two places within the Territory, a person seeking employment, or
(c) collect or receive, directly or indirectly, a fee or compensation for giving or furnishing information with respect to employers seeking workers or workers seeking employment. R.O. 1958, c. 35, s. 3.

PENALTY

4. (1) Every person who violates a provision of this Ordinance is guilty of an offence and liable on summary conviction to a fine not exceeding seventy-five dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. R.O. 1958, c. 35, s. 4. Offence and penalty

CHAPTER E-5

ENGINEERING PROFESSION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Engineering Profession Ordinance*. R.O. 1958, c. 36, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“Association” means The Association of Professional Engineers of the Yukon Territory; “Association”

“Council” means the Council of the Association; “Council”

“licensee” means the holder of a temporary licence; “licensee”

“practice of professional engineering” means the carrying on of any branch of chemical, civil, electrical, forestry, mechanical, mining, geological, metallurgical, structural or any other form of engineering, any professional service or creative work requiring engineering education, training and experience, or the application of special knowledge of any of the mathematical or physical sciences to such professional services or creative work as consultation, investigation, evaluation, planning, designing and engineering supervision of construction or operations in connection with any public or private utilities, structures, machines, equipment, processes, works or projects; “practice of professional engineering”

“President” means President of the Association; “President”

“professional engineer” means a person who is registered or duly licensed under this Ordinance; “professional engineer”

“register” means the register kept by the Registrar under this Ordinance; “register”

“Registrar” means the Registrar of the Association; “Registrar”

“temporary licence” means a licence issued pursuant to subsection 12 (2). R.O. 1958, c. 36, s. 2; 1961 (1st) c. 8, s. 1(1), (2). “temporary licence”

APPLICATION

3. (1) Nothing in this Ordinance shall be so construed as to prevent a person registered as an architect under any Act of Exemptions
Architects and
land surveyors

the provinces relating to the practice of architecture from practising the profession of architecture or to require him to be registered under this Ordinance where the practice of such person is confined to architecture; and nothing in this Ordinance shall apply to a Dominion Land Surveyor practising his profession, except that such surveyor shall not style himself nor hold himself out as a professional engineer unless he is registered or licensed under this Ordinance.

Armed forces
and visiting
force

(2) This Ordinance does not apply to any member of the armed forces of Canada or of a visiting force as defined in the *Visiting Forces Act*, while actually employed on duty with such forces.

Work for
personal use

(3) Nothing in this Ordinance shall be construed as preventing the carrying on by any person on his own property of any work for the sole use of himself and his domestic establishment, or the designing, constructing or installing by any individual for his own use of appliances, works or plants where such work does not involve the safety of the general public or of the property of others.

Assistants under
direction of
engineer

(4) Nothing in this Ordinance shall be so construed as to prevent any person from assisting in the execution of any professional service or creative work of the kind described in the definition of "practice of professional engineering" in section 2 where a professional engineer directly supervises and assumes full responsibility for such service or work. R.O. 1958, c. 36, s. 3.

ORGANIZATION

Incorporation of
Association

4. (1) The Association of Professional Engineers of the Yukon Territory is hereby constituted a body corporate.

Head office

(2) The head office of the Association shall be situated in the City of Whitehorse in Yukon Territory. R.O. 1958, c. 36, s. 4.

Powers of
Association with
respect to
property

5. (1) The Association shall have power to acquire and hold real and personal property and to alienate, mortgage, lease or otherwise charge, deal with or dispose of the same or any part thereof as occasion may require. R.O. 1958, c. 36, s. 5.

Membership

6. (1) The membership of the Association shall consist of all members of the Association who are in good standing under the provisions of this Ordinance and all persons admitted to membership by the Council under this Ordinance and

the by-laws of the Association as long as they remain on the register. R.O. 1958, c. 36, s. 6.

7. (1) The powers conferred on the Association shall be exercised by the Council. Council

(2) Subject to this Ordinance and the by-laws of the Association, the Council shall govern, control and administer the affairs of the Association and shall exercise all rights and powers vested in it by this Ordinance or by the by-laws, and may pass resolutions necessary for those purposes. Powers

(3) The Council shall consist of a President, vice-president, the immediate past-president and one councillor, chosen from the members of the Association in the manner provided by the by-laws issued under the authority of this Ordinance. Membership

(4) Members of the Council shall hold office until their successors are elected or appointed. Term of office

(5) All persons who are members of the Council on the 2nd day of April 1955 shall continue in office until their successors are elected or appointed under this Ordinance.

(6) The President shall be elected annually by the members of the Association, and shall hold office until his successor is elected. President

(7) The President if present shall act as presiding officer at the meetings of the Council and of the Association, voting only when votes are evenly divided unless he requests the meeting to appoint some other person to preside.

(8) The vice-president shall be elected by the members of the Association, and shall have all the powers and rights of the President during the absence of the President. vice-president

(9) In the case of the incapacity, resignation or death of a member of the Council, the other members of the Council shall appoint a member of the Association to fill the vacancy. R.O. 1958, c. 36, s. 7. Vacancies in the Council

8. (1) The Council shall appoint from the membership of the Association a Registrar and a Secretary-Treasurer who shall hold office during the pleasure of the Council. Appointment of Registrar and Secretary-Treasurer

(2) The office of Registrar and of Secretary-Treasurer may, where the Council so directs, be held by one person.

Duties of Registrar

(3) The Registrar shall keep a register containing the roll of members and shall perform such duties as are prescribed by this Ordinance and the by-laws of the Association.

Duties of Secretary-Treasurer

(4) The Secretary-Treasurer shall perform such duties as are prescribed by the by-laws of the Association. R.O. 1958, c. 36, s. 8; 1961 (1st) c. 8, s. 2.

Powers of Council exercisable by by-law

9. (1) The Council may pass, alter and amend by-laws not inconsistent with this Ordinance providing for

- (a) the election of the Council;
- (b) the government, discipline and honour of the members of the Association, including the prescribing of a code of ethics by which such members shall be bound;
- (c) the management and maintenance of the Association and its property, both real and personal, the investment of its funds, banking, the borrowing of money, the appointment of staff and their remuneration and generally for the carrying on of the general business of the Association;
- (d) the fixing of an annual fee not in excess of fifty dollars and other fees, including fees on admission;
- (e) the levying, payment, remission and collecting of annual and other fees;
- (f) the establishment and regulation of standards of admission to membership and the enrolment and qualifications of candidates for admission to membership;
- (g) the designation of the different grades of membership in the Association and limitation of the rights of members within the different grades;
- (h) the resignation and temporary withdrawal of members;
- (i) the calling and conduct of meetings of the Association and of the Council, the necessary quorums, voting, the appointment of committees and their powers, the method of balloting and other matters in connection therewith;
- (j) the assistance, pecuniary or otherwise, to individuals and organizations where, in the opinion of the Council, such assistance will be of benefit to the public, the Association or its members; and
- (k) all other purposes reasonably necessary for the management, regulation and well-being of the Association. R.O. 1958, c. 36, s. 9.

10. (1) Subject to subsection (2), no by-law passed by the Council shall come into force By-laws to be filed with Commissioner

- (a) until the expiration of thirty days from the date of passage of such by-law, and
- (b) unless a true copy of such by-law duly certified by the seal of the Association has been filed with the Commissioner.

(2) Where, within thirty days of the passage of a by-law of the Council, a written request by at least four members of the Association has been received by the Council to have a vote taken among the membership to ratify the by-law, the Council shall take a vote of the members of the Association by letter ballot in the manner provided by the by-laws of the Association, and a vote so taken shall have the same force as if the vote had been taken at a general meeting of the Association. Ratification by letter ballot upon request

(3) All by-laws passed by the Association shall be tabled by the Commissioner at the next session of the Council of the Yukon Territory who may, by resolution, disallow any by-law so tabled. R.O. 1958, c. 36, s. 10. By-laws to be tabled

11. (1) An annual meeting of the Association shall be held at such time and place as the Council shall appoint, at least once in every calendar year, and not more than fifteen months after the holding of the last preceding annual meeting. Meetings of Association

(2) If default is made in holding any annual meeting, the Commissioner or a judge on the application of a member of the Association may call or direct the calling of an annual meeting of the Association. Default in holding annual meeting

(3) The Council, at any time of its own motion, may call a general meeting of the Association. Council may call general meeting

(4) Council shall give notice of the time and place for holding a meeting of the Association by sending notice to each member of the Association by prepaid mail not less than twenty-one days before the date of the meeting, to his last recorded address. R.O. 1958, c. 36, s. 11. Notice of meeting

12. (1) The Council shall admit a person to membership in the Association who Admission to membership

- (a) applies for membership in the Association in the form prescribed by the Council;
- (b) has attained the age of 23 years;

- (c) has produced evidence to the Council that he is of good character and repute;
- (d) establishes to the satisfaction of the Council
 - (i) that he is a duly registered member in good standing of an association or corporation of professional engineers of any province of Canada, or
 - (ii) that he is fully qualified for admission to membership in one of the associations or corporations referred to in sub-paragraph (i) in accordance with the relevant laws governing admission to such membership;
- (e) has had at least two years actual experience in engineering work of a nature satisfactory to the Council; and
- (f) pays all fees prescribed by the Council.

Issue a temporary licence

(2) The Council may, subject to such terms and conditions as it may impose, issue a temporary licence to engage in the practice of professional engineering in the Territory to any person who

- (a) is qualified for membership in the Association pursuant to subsection (1),
- (b) applies for a temporary licence in the form prescribed by the Council, and
- (c) pays all fees prescribed by the Council.

Licence to specify

- (3) A temporary licence shall specify
- (a) the purposes for which it is issued; and
 - (b) the period during which it shall remain in force.

Corporations and partnerships

- (4) No corporation or partnership shall
- (a) be admitted as a member in the Association, or
 - (b) be issued a temporary licence.

(5) Where professional engineers are employed by corporations or are members of partnerships, they individually shall assume the functions of and be held responsible as professional engineers. R.O. 1958, c. 36, s. 12; 1961 (1st) c. 8, s. 3(1), (2); 1965 (1st) c. 2, s. 1.

Council to examine credentials

13. (1) The Council shall examine all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining membership in the Association or of obtaining a temporary licence, and may require the holder of such credentials to attest by oath or by statutory declaration any matter involved in his application. R.O. 1958, c. 36, s. 13; 1961 (1st) c. 8, s. 4.

REGISTRATION

14. (1) Every person who has become a member of the Association is entitled to be entered in the register upon payment to the Registrar of such fee as is prescribed by the by-laws of the Council.

Registration of members

(2) The Registrar shall enter in the register the full name and address and the date of registration of every person who becomes entitled to registration, and he shall also cause a list of all members of the Association to be published in one issue of the *Yukon Gazette* during March in each year.

Registrar to enter members in the register

(3) As long as a member remains on the register, he shall be deemed to be a member of the Association with all the rights and privileges but subject to all the terms and provisions of this Ordinance. R.O. 1958, c. 36, s. 14; 1961 (1st) c. 8, s. 5.

15. (1) The Registrar shall issue a certificate of registration to every member of the Association upon his becoming registered, which certificate shall remain the property of the Association.

Certificate of registration

(2) Every certificate shall be signed by the President and by the Registrar and bear the seal of the Association and shall constitute evidence of registration as at the date of issue, and upon receipt of the annual fee in each subsequent year the Registrar shall furnish the member with evidence of the renewal thereof.

(3) Upon receipt of such certificate of registration, a member shall be entitled to use the title of "professional engineer" or such abbreviation thereof as may be approved by the Council and may procure a seal or stamp, the impression of which shall contain the member's name and the words "Professional Engineer, Yukon Territory", and any other designation that may be provided for in the by-laws, with which he shall seal or stamp all official estimates, specifications, reports, documents and plans that he, in his capacity as a professional engineer, has prepared or had prepared under his direct supervision.

Use of term "professional engineer"

Seal

(4) A certificate issued under subsection (1) shall be at all times prominently displayed by the member in his office or other place of business. R.O. 1958, c. 36, s. 15.

Display of certificate of registration

16. (1) Every member of the Association shall pay in advance to the Secretary-Treasurer, or any person deputed by the Council to receive it, such annual fee as is fixed by the by-laws, which fee shall be deemed to be a debt due by him to

Annual fee

the Association and in addition to any other remedy shall be recoverable with costs by the Association in any court of competent jurisdiction.

Omission to pay
annual fee

(2) If a member of the Association omits to pay the prescribed annual fee before the first day of March in any year, he shall be liable to have his name struck off the register and if he is still in default three months after notice in writing has been sent by registered mail to him at his last recorded address demanding payment, the Registrar, on direction of the Council, shall remove his name from the register without further notification, whereupon he shall cease to be registered and he shall not be registered again except at the discretion of Council and upon payment of such arrears of fees as the Council directs. R.O. 1958, c. 36, s. 16; 1961 (1st) c. 8, s. 6.

Practising
without being
registered or
licensed

17. (1) Except as otherwise provided in this Ordinance, no person shall engage in the practice of professional engineering within the Yukon Territory or use the title "professional engineer" or any abbreviation thereof unless

- (a) he is a member of the Association and holds a certificate of registration issued pursuant to this Ordinance, or
- (b) he is a licensee.

Offences

(2) Except as otherwise provided in this Ordinance, any person who, without being registered or licensed,

- (a) engages in the practice of professional engineering;
- (b) usurps the function of a professional engineer;
- (c) assumes, verbally or otherwise, the title of professional engineer, or advertises, uses or permits to be advertised or used in any manner whatsoever, in connection with his name or otherwise, any word, name, title or designation mentioned in the definition of professional engineering, or any combination or abbreviation thereof, or any other word, name, title, designation, descriptive term or statement implying, or calculated to lead any other person to believe, that he is a professional engineer, or is ready or entitled to engage in or is engaged in the practice of professional engineering;
- (d) acts in such manner as to lead any other person to believe that he is authorized to fill the office of or act as a professional engineer; or
- (e) advertises, uses or displays any sign, card, letterhead or other device representing to the public that he is a professional engineer, or a person entitled to engage in the practice of professional engineering, or holds himself out to the public to be a professional engineer;

commits an offence and is liable on summary conviction to a penalty not exceeding one hundred dollars for the first offence, and a penalty not exceeding five hundred dollars for every subsequent offence. R.O. 1958, c. 36, s. 17; 1961 (1st) c. 8, s. 7 (1) (2). Penalty

18. (1) A partnership, an association of persons or a corporation may engage in the practice of professional engineering in its own name and use the title "professional engineers" if the practice is carried on under the supervision of Partnerships, associations and corporations

- (a) a member of the partnership or association or a director of the corporation; or
- (b) a full time permanent employee of the partnership, association or corporation,

who is

- (c) a member of the Association and holds a certificate of registration issued pursuant to this Ordinance; or
- (d) a licensee. 1963 (1st) c. 7, s. 1.

19. (1) Any person who advertises or uses in any manner in connection with a person who is not a member of the Association or who is not a licensee the title of professional engineer or any word, name, title or designation mentioned in the definition of professional engineering, or any combination or abbreviation thereof or any other word, name, title, designation, descriptive term or statement implying or calculated to lead any other person to believe that such person is a professional engineer or is ready or entitled to engage in or is engaged in the practice of professional engineering commits an offence and is liable on summary conviction to a penalty not exceeding one hundred dollars for the first offence, and a penalty not exceeding five hundred dollars for every subsequent offence. R.O. 1958, c. 36, s. 18; 1961 (1st) c. 8, s. 8. Offence and penalty for holding out as engineer

20. (1) In the event of any breach or threatened breach by any person of any provision of this Ordinance, the Association shall be entitled in an action brought for such purpose to an injunction to restrain such person from continuing or committing such breach; and pending the trial of any such action and adjudication thereon, the Court or a judge thereof, on being satisfied that there is reason to believe that such person has committed or is likely to commit a breach of this Ordinance, shall grant an interim injunction. R.O. 1958, c. 36, s. 19. Injunction

Recovery of fees

21. (1) No person shall be entitled to recover any fee or remuneration in any court of law in the Territory for any work or service comprised in the practice of professional engineering unless at the time such work or service was performed,

(a) he was a member of the Association and held a certificate of registration issued pursuant to this Ordinance, or

(b) he was a licensee.

Works under
Municipal
Ordinance

(2) No plans or specifications for any works or buildings or for any alteration thereto involving the safety of the public or costing over the sum of twenty thousand dollars shall be passed, approved or accepted by any municipality formed under the provisions of the *Municipal Ordinance* or by any official or employee thereof, unless the said plans or specifications have been duly signed and sealed by a professional engineer or a person registered as an architect under any Act of the provinces relating to the practice of architecture. R.O. 1958, c. 36, s. 20; 1961 (1st) c. 8, s. 9.

Falsification of
register

22. (1) Where the Registrar makes or causes to be made any wilful falsification of any matters relating to the register, he commits an offence and is liable on summary conviction to a penalty not exceeding five hundred dollars. R.O. 1958, c. 36, s. 21.

Fraudulent
representation

23. (1) Where a person wilfully procures or attempts to procure himself to be registered or licensed under this Ordinance by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either verbally or in writing, he, and every person knowingly aiding and assisting him therein, commits an offence and is liable on summary conviction to a penalty not exceeding five hundred dollars. R.O. 1958, c. 36, s. 22; 1961 (1st) c. 8, s. 10.

Proof of single
act

24. (1) In any prosecution under this Ordinance it shall be sufficient proof of the offence alleged if it is proved that the accused has done or committed a single act of the kind complained of. R.O. 1958, c. 36, s. 23.

Limitation of
time for prosecution

25. (1) No prosecution shall be commenced for any offence under this Ordinance after two years from the date on which it is alleged that the offence was committed. R.O. 1958, c. 36, s. 24.

26. (1) Notwithstanding anything contained in this Ordinance, no person who has been convicted in Canada of an indictable offence shall be entitled to be registered, and the Council may remove from the register the name of any member of the Association who has been convicted in Canada and an indictable offence; but the Council may, if it sees fit, permit a person who has been so convicted to become or remain a member of the Association, or may restore to the register the name of any person whose name has been removed under this section; and the registration of a person shall not be refused and the name of a person shall not be removed on account of a conviction for an offence which ought not, in the opinion of the Council, either from the nature of the offence or from the circumstances under which it was committed, to disqualify a person from practising under this Ordinance.

Removal from register

(2) The Council may cancel the temporary licence of any person who has been convicted in Canada of an indictable offence. R.O. 1958, c. 36, s. 25; 1961 (1st) c. 8, s. 11.

Cancellation of licence

27. (1) The Council, after giving written notice to any person affected, may, and upon application of any three members of the Association shall, cause inquiry to be made into matters respecting any fraudulent or incorrect entry in the register, unprofessional conduct, negligence or misconduct of or relating to any member or a person licensed under this Ordinance, or any violation of the Ordinance or the by-laws by any such member or such licensee.

Inquiry by Council

(2) Any person to whom notice is given is entitled to be heard and to submit evidence at the inquiry.

Hearing person affected

(3) After the inquiry the Council may in its discretion order the removal or correction of any entry in the register or roll or the cancellation of any licence, and may reprimand, censure, suspend or expel from the Association any person found guilty.

Council's power

(4) Where a member of the Association is suspended from practice, the registration of such member shall be deemed to be cancelled during the term of his suspension and he shall not be deemed to be a member of the Association or entitled to any of the rights or privileges thereof so long as the suspension continues.

Suspended member

(5) Where, as a result of any inquiry under the Ordinance a member of the Association is suspended, or the name of any such person is removed from the register or roll, the Council

Costs

may direct that the costs of and incidental to the inquiry, including fees payable to the solicitors, counsel and witnesses, or any part of such costs, shall be paid by such person, and any costs as aforesaid may be determined and recovered as in this section provided.

(6) Where, as a result of a further inquiry, the name of the person whose name has been removed from the register or roll is restored thereto, or if such person is acquitted of any charge made against him, the Council may direct that the costs of and incidental to the inquiry, including the fees payable to solicitors, counsel or witnesses, or any part thereof, shall be borne and paid by the Association. R.O. 1958, c. 36, s. 26; 1961 (1st) c. 8, s. 12(1),(2).

Legal assistance

28. (1) The Council, for the purpose of carrying out its duties under this Ordinance, may employ at the expense of the Association such legal counsel or assistance as the Council may think necessary or proper; and a person whose status or conduct is the subject of inquiry shall also have the right to be represented by counsel. R.O. 1958, c. 36, s. 27.

Procedure upon inquiry

29. (1) At least seven clear days before the first meeting of the Council to be held for taking evidence or otherwise ascertaining facts a written notice shall be personally served upon the person whose status or conduct is the subject of inquiry, or failing personal service, by leaving same at, or by mailing the same by registered mail to his latest known address.

(2) The notice mentioned in subsection (1) shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry, and shall also specify the time and place of the meeting.

(3) The testimony of witnesses shall be taken under oath, which the presiding member of the Council is authorized to administer, and there shall be full right to cross-examine all witnesses called, and to call evidence in defence and reply.

(4) In the event of non-attendance of the person whose status or conduct is the subject of inquiry, the Council, upon proof of the service upon him of the notice required by subsection (1), which proof may be made by statutory declaration, may proceed with the subject matter of the inquiry in his absence, and make its finding of the facts and its decision thereon without further notice to him. R.O. 1958, c. 36, s. 28.

Subpoena of witness

30. (1) The Council, or any person interested in the proceedings on any such inquiry, may make application to a

judge for the issue of a writ of subpoena for the attendance of any witness, and for the production of books, papers and documents at the inquiry similar in form and effect to writs of that nature issued pursuant to the Rules of Court, and the fees payable to the Crown therefor and the procedure with regard thereto shall be governed by those rules and the appendices thereto as nearly as the same are applicable. R.O. 1958, c. 36, s. 29.

31. (1) Any person who feels himself aggrieved by any order of the Council made under section 26 or whose application for membership in the Association has been refused under paragraph 12(1)(c), may appeal from the said order or the said refusal of the application for membership, to a judge at any time within three months from the date of the order or the refusal as the case may be. Appeal

(2) The appellant shall appeal by filing with the Clerk of the Territorial Court a notice of appeal setting out the ground on which the appeal is based.

(3) With the notice of appeal the appellant shall also file a copy of the proceedings, the evidence taken, the order of the Council in the matter and the reasons therefor, if any, certified by the Registrar.

(4) The appellant shall cause to be served upon the Registrar of the Association a copy of the notice of appeal.

(5) The notice of appeal shall state a place and time not less than seven clear days after the service thereof on which the appeal shall be heard.

(6) Upon the hearing of the appeal the Court may sustain, reverse, alter or amend the order, or remit the matter to the Council for rehearing, or may make such other order as to costs or otherwise in the premises as to the Court seems right.

(7) Every appeal made in accordance with subsection (1) shall be heard and determined upon its merits and shall not be defeated by reason of any technical defect in the proceedings.

(8) The Registrar, upon the request of any person desiring to appeal, shall furnish him with a certified copy of all proceedings, reports, orders, reasons and the papers upon which the Council had acted in making the order complained of. R.O. 1958, c. 36, s. 30.

32. (1) In any proceedings or prosecution under this Ordinance in which proof is required that any person is or is not a Evidence

member of the Association or a licensee, a certificate purporting to be signed by the Registrar and under the seal of the Association that such person is or is not a member of the Association or a licensee, as the case may be, shall be *prima facie* evidence of the fact so certified, without any proof of the signature or of the seal or of the person signing being in fact the Registrar. R.O. 1958, c. 36, s. 31; 1961 (1st) c. 8, s. 13.

Protection
against action

33. (1) No action shall lie against the Council, any member of the Association or a licensee for any proceedings bona fide taken or enforced or attempted under a by-law of the Association or for anything done *bona fide* and pursuant to this Ordinance. R.O. 1958, C. 36, s. 32; 1961 (1st) C. 8, s. 13.

CHAPTER E-6

EVIDENCE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Evidence Ordinance*. Short title
R.O. 1958, c. 37, s. 1.

INTERPRETATION

2. (1) In this Ordinance Definitions
- “action” includes any civil proceeding, inquiry, arbitration and a prosecution for an offence committed against an Ordinance of the Territory or against a by-law or regulation made under the authority of any such Ordinance, and any other prosecution or proceeding authorized or permitted to be tried, heard, had or taken by or before a court under the law of the Territory; “action”
- “bank” means a bank to which the *Bank Act* applies, and includes a branch, agency and office of a bank; “bank”
- “country” includes kingdom, empire, republic, commonwealth, state, province, territory, colony, possession or protectorate and, where parts of a country are under both a central and a local legislature, includes all parts under the central legislature and each part under a local legislature; “country”
- “country of the British Commonwealth” means Australia, Ceylon, India, New Zealand, Pakistan and the Union of South Africa, and all colonies, dependencies or territories of any of such countries or of the United Kingdom or of Canada; “country of the British Commonwealth”
- “court” includes an arbitrator, umpire, commissioner, magistrate, judge of the Territorial Court, justice of the peace or other officer or person having by law or by consent of parties authority to hear, receive and examine evidence; “court”
- “document” includes book, map, plan, drawing or photograph; “document”
- “federal” as applied to state documents, means of or pertaining to Canada; “federal”
- “foreign state” includes every country other than the United Kingdom, Canada and a country of the British Commonwealth; “foreign state”

"Imperial"	"Imperial" as applied to state documents, means of or pertaining to the United Kingdom, and includes any kingdom that included England, whether known as the United Kingdom of Great Britain and Ireland or otherwise;
"Imperial Parliament"	"Imperial Parliament" means the Parliament of the United Kingdom and includes the Parliament of any kingdom that included England, whether known as the United Kingdom of Great Britain and Ireland or otherwise;
"legislature"	"legislature" includes any legislative body or authority competent to make laws for a country;
"province"	"province" means a province or territory of Canada;
"Queen's Printer"	"Queen's Printer" includes government printer or other official printer;
"state document"	"state document" includes, <ol style="list-style-type: none"> (a) any Act or ordinance enacted or made or purporting to have been enacted or made by a legislature, (b) any order, regulation, notice, appointment, warrant, licence, certificate, letters patent, official record, rule of court or other instrument issued or made or purporting to have been issued or made under the authority of any Act or ordinance so enacted or made, and (c) any official gazette, journal, proclamation, treaty or other public document or act of state issued or made or purporting to have been issued or made;
"statement"	"statement" includes any representation of fact, whether made in words or otherwise;
"statutory declaration" "solemn declaration"	"statutory declaration" or "solemn declaration" means a solemn declaration in the form and manner provided in the <i>Canada Evidence Act</i> . R.O. 1958, c. 37, s. 2.

COMPETENCY OF WITNESSES AND PRIVILEGES

Not incompetent from interest or crime

3. (1) A person is not incompetent to give evidence by reason of crime or interest. R.O. 1958, c. 37, s. 3.

Evidence of parties

4. (1) Except as provided in this Ordinance, the parties to an action and the persons on whose behalf an action is brought, instituted, opposed or defended, and their spouses are competent and compellable to give evidence on behalf of themselves or of any parties.

(2) Every person charged with an offence shall be a competent but not compellable witness at every stage of the proceedings, whether the person so charged is charged solely or jointly with any other person, provided as follows:

- (a) a person so charged shall not be called as a witness except upon his own application ;
- (b) the failure of any person charged with an offence to give evidence shall not be made the subject of any comment by the prosecution or court ;
- (c) a person charged and called as a witness shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of or been charged with any offence other than that wherewith he is then charged, or is of bad character unless
 - (i) the proof that he has committed or been convicted of such other offence is admissible evidence to show that he is guilty of the offence wherewith he is then charged ;
 - (ii) he has personally or by his counsel asked questions of the witnesses for the prosecution with a view to establish his own good character, or has given evidence of his own good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or the witnesses for the prosecution ; or
 - (iii) he has given evidence against any other person charged with the same offence. R.O. 1958, c. 37, s. 4 ; 1968 (2nd) c. 3, s. 1.

5. (1) Without limiting the generality of section 4 a husband or wife may, in an action, give evidence that he or she did or did not have sexual intercourse with the other party to the marriage at any time or within any period of time before or during the marriage. R.O. 1958, c. 37, s. 5.

Husband and wife

6. (1) No witness in an action, whether a party thereto or not, is liable to be asked or is bound to answer any question tending to show that he or she has been guilty of adultery unless he or she has already given evidence in the same action in disproof of the alleged adultery. R.O. 1958, c. 37, s. 6.

Evidence as to adultery

7. (1) A husband is not compellable to disclose a communication made to him by his wife during marriage, nor is a wife compellable to disclose a communication made to her by her husband during marriage. R.O. 1958, c. 37, s. 7.

Communication made during marriage

8. (1) In this section "witness" includes a person who, in the course of an action is examined *viva voce* on discovery or who is cross-examined upon an affidavit made by him or who

Witness

answers any interrogatories or makes an affidavit as to documents.

Incriminating questions

(2) A witness shall not be excused from answering a question or producing a document upon the ground that the answer to the question or the production of the document may tend to criminate him, or may tend to establish his liability to an action at the instance of the Crown or of any person.

Evidence not to be used

(3) Where, with respect to a question, or the production of a document, a witness objects to answer or to produce upon any of the grounds mentioned in subsection (2) and, but for this section or any Act of the Parliament of Canada, he would have been excused from answering the question, or from producing the document then, although the witness is by reason of this section or by reason of any Act of the Parliament of Canada compelled to answer or produce, the answer so given or the document so produced shall not be used or receivable in evidence in any legal proceeding thereafter taking place against him. R.O. 1958, c. 37, s. 8.

ATTENDANCE OF WITNESS

No person need attend as witness unless he receives proper witness fees, etc.

9. (1) No person is obliged to attend or give evidence in an action unless he is tendered his proper witness fees and necessary travelling expenses. R.O. 1958, c. 37, s. 9.

EXPERT EVIDENCE

Number of expert witnesses

10. (1) Where it is intended by any party to an action to examine as witnesses professional or other experts entitled according to law or practice to give opinion evidence, not more than three such witnesses may be called by either side to give opinion evidence on any issue in the action without the leave of the court. R.O. 1958, c. 37, s. 10.

A written report may be admitted as evidence

11. (1) A written report or finding of facts prepared by an expert not being a party to the action nor an employee of a party except for the purpose of making such report or finding nor financially interested in the result of the controversy, and containing the conclusions resulting wholly or partly from written information furnished by the co-operation of several persons acting for a common purpose, is, insofar as the same may be relevant, admissible when testified to by the person or one of the persons making such report or finding, without calling as witnesses the persons furnishing the information and without producing the books or other writings on which the report or finding is based, if, in the opinion of the

court, no substantial injustice will be done the opposite party. R.O. 1958. c. 37, s. 11.

12. (1) A person who has furnished information on which a report or finding referred to in section 11 is based, may be cross-examined by the adverse party, but the fact that his testimony is not obtainable does not render the report or finding inadmissible unless the court finds that substantial injustice would be done to the adverse party by its admission. R.O. 1958, c. 37, s. 12.

Person making a report may be cross-examined

13. (1) Except as provided in subsection (2), a report or finding referred to in section 11 is not admissible unless the party offering it gives notice to the adverse party a reasonable time before trial of his intention to offer it together with a copy of the report or finding or so much thereof as may relate to the controversy and also affords him a reasonable opportunity to inspect and copy any records or other documents in the offering party's possession or control on which the report or finding was based and also the names of all persons furnishing facts upon which the report or finding was based.

Report not admissible unless notice given

(2) The report or finding may be admitted if the court finds that no substantial injustice would result from the failure to give the notice referred to in subsection (1). R.O. 1958, c. 37, s. 13.

Court may admit

CORROBORATIVE EVIDENCE

14. (1) The plaintiff in an action for breach of promise of marriage shall not obtain a verdict or judgment unless his or her testimony is corroborated by some other material evidence in support of the promise. R.O. 1958, c. 37, s. 14.

Breach of promise of marriage

15. (1) In an action by or against the heirs, next of kin, executors, administrators or assigns of a deceased person, an opposite or interested party shall not on his own evidence obtain a verdict, judgment or decision, in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R.O. 1958, c. 37, s. 15.

Action by or against representatives of a deceased person

16. (1) In an action by or against a mentally disordered person so found or an inmate of an institution for mentally disordered persons, or a person who from unsoundness of mind is incapable of giving evidence, an opposite or interested party shall not obtain a verdict, judgment or decision on

Action by or against a mentally disordered person, etc.

his own evidence, unless such evidence is corroborated by some other material evidence. R.O. 1958, c. 37, s. 16.

Evidence of a child of tender years

17. (1) No action shall be decided upon the evidence of a child of tender years given under the authority of section 23 unless such evidence is corroborated by some other material evidence. R.O. 1958, c. 37, s. 17.

OATHS AND AFFIRMATIONS

Court may administer

18. (1) Every court has power to administer or cause to be administered an oath or affirmation to every witness who is called to give evidence before the court.

Person before whom oath, etc., is directed to be made may administer

(2) Where an oath, affirmation or declaration is directed to be made before a person, he has full power and authority to administer it and to certify to its having been made. R.O. 1958, c. 37, s. 18.

Manner of administering oath

19. (1) An oath may be administered to any person

(a) while such person holds in his hand a copy of the Old or New Testament, without requiring him to kiss the same; or

(b) in such manner and form and with such ceremonies as he declares to be binding on his conscience. R.O. 1958, c. 37, s. 19.

Form of oath, etc.

20. (1) Where a person is about to give evidence, the oath may be in the following form :

“I (you) swear that the evidence to be given by me (you) shall be the truth, the whole truth, and nothing but the truth. So help me (you) God.”

(2) Where a person is about to swear an affidavit or deposition, the oath may be in the following form :

“I (you) swear that the contents of this affidavit or deposition are true. So help me (you) God.” R.O. 1958, c. 37, s. 20.

Form of affirmation

21. (1) Where a person called or desiring to give evidence objects on grounds of conscientious scruples to take an oath, or is objected to as incompetent to take an oath, the person may make the following affirmation :

“I solemnly affirm that the evidence to be given by me shall be the truth, the whole truth, and nothing but the truth.”

(2) Where a person makes an affirmation, his evidence shall be taken and have the same effect as if taken under oath. Effect of affirmation

(3) Where a person required or desiring to make an affidavit or deposition in an action or on an occasion where or touching a matter respecting which an oath is required or is lawful, whether on the taking of office or otherwise, refuses or is unwilling on grounds of conscientious scruples to be sworn, the court, or other officer or person qualified to take affidavits or depositions shall permit the person, instead of being sworn, to make his affirmation in the words, “I solemnly affirm” which affirmation is of the same force and effect as if the person had taken an oath in the usual form. R.O. 1958, c. 37, s. 21. Affirmations instead of affidavits

22. (1) Where an oath has been administered and taken, the fact that the person to whom it was administered and by whom it was taken did not at the time of taking the oath believe in the binding effect of the oath does not, for any purpose, affect the validity of the oath. R.O. 1958, c. 37, s. 22. Validity of oath. no religious belief

23. (1) In any action where a child of tender years is tendered as a witness, and the child does not, in the opinion of the court, understand the nature of an oath, the evidence of the child may be received, though not given upon oath, if, in the opinion of the court, the child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. R.O. 1958, c. 37, s. 23. Evidence of child of tender years

EXAMINATION AND EVIDENCE OF WITNESSES

24. (1) A witness who is unable to speak may give his evidence in any other manner in which he can make it intelligible. R.O. 1958, c. 37, s. 24. Evidence of mutes

25. (1) A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the matter in question, without the writing being shown to him; but if it is intended to contradict him by the writing, his attention shall, before the contradictory proof is given, be called to those parts of the writing that are to be used for the purpose of so contradicting him; and the court may require the production of the writing for the court's Proof of contradictory written statements

inspection, and may thereupon make such use of it for the purposes of the trial or proceeding as the court may think fit. R.O. 1958, c. 37, s. 25.

Proof of contradictory oral statements

26. (1) Where a witness, upon cross-examination as to a former statement made by him relative to the matter in question, and inconsistent with his previous evidence, does not distinctly admit that he did make the statement, proof may be given that he did in fact make it; but before the proof is given the circumstances of the supposed statement sufficient to designate the particular occasion shall be mentioned to the witness, and he shall be asked whether or not he did make the statement. R.O. 1958, c. 37, s. 26.

Proof of previous conviction of a witness

27. (1) A witness may be asked whether he has been convicted of any offence, and upon being so asked, if he either denies the fact or refuses to answer, the conviction may be proved.

Certificate of conviction

(2) A certificate containing the substance and effect only, omitting the formal part, of the charge and of the conviction, purporting to be signed by the officer having the custody of the records of the court in which the offender was convicted, or by the deputy of the officer, is, upon proof of the identity of the witness as the offender, sufficient evidence of the conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate. R.O. 1958, c. 37, s. 27.

Discrediting one's own witness

28. (1) A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but he may contradict him by other evidence, or if the witness in the opinion of the court proves adverse, the party may by leave of the court cross-examine him and may prove that the witness made at some other time a statement inconsistent with his present testimony; before such proof is given the circumstances of the statement sufficient to designate the particular occasion shall be mentioned to the witness and he shall be asked whether or not he did make the statement. R.O. 1958, c. 37, s. 28.

JUDICIAL NOTICE AND PROOF OF STATE DOCUMENTS

Judicial notice taken of Statutes and Ordinances

29. (1) Judicial notice shall be taken of

- (a) Acts of the Imperial Parliament,
- (b) Acts of the Parliament of Canada,
- (c) Ordinances made by the Governor in Council of Canada.

- (d) Ordinances of the legislature of, or other legislative body or authority competent to make laws for, any province, and
- (e) Acts and Ordinances of the legislature of, or other legislative body or authority competent to make laws for, any country of the British Commonwealth including the date of coming into force of any such Act or Ordinance. R.O. 1958, c. 37, s. 29; 1971 (1st) c. 19.

- 30. (1)** The existence and the whole or any part of the contents of any Imperial state document may be proved
- (a) in the same manner as the same may from time to time be provable in any court in England; Proof of Imperial state document
English mode
 - (b) by the production of a copy of the *Canada Gazette* or a volume of the Acts of the Parliament of Canada purporting to contain a copy of or an extract from the same or a notice thereof; *Canada Gazette*
 - (c) by the production of a copy thereof or an extract therefrom purporting to be printed by or for or by authority of the Queen's Printer for Canada or for any province; Copy by Queen's Printer
 - (d) by the production of a copy thereof or an extract therefrom purporting to be certified as a true copy or extract by the minister or head or by the deputy minister or deputy head of any department of the Imperial Government; or Copy by Minister
 - (e) by the production of a copy thereof or an extract therefrom purporting to be certified as a true copy or extract by the custodian of the original document or the public records from which the copy or extract purports to be made. Copy by custodian
- (2)** The existence and the whole or any part of the contents of any federal or provincial state document may be proved
- (a) by the production of a copy of the *Canada Gazette* or of the official gazette of any province or of a volume of the Acts of the Parliament of Canada or of the legislature of any province purporting to contain a copy of the state document or an extract therefrom or a notice thereof; *Canada Gazette*
 - (b) by the production of a copy thereof or an extract therefrom purporting to be printed by or for or by authority of the Queen's Printer for Canada or for any province; or Copy by Queen's Printer

Copy by Minister or custodian

- (c) by the production of a copy thereof or an extract therefrom, whether printed or not, purporting to be certified as a true copy or extract by the minister or head, or the deputy minister or deputy head, of any department of Government of Canada or of any province, or by the custodian of the original document or the public records from which the copy or extract purports to be made, or purporting to be an exemplification of the state document under the Great Seal or other state seal of the British possession or of the foreign state.

Proof of state document of country of the British Commonwealth or foreign state

(3) The existence and the whole or any part of the contents of any state document of a country of the British Commonwealth or foreign state may be proved

Copy by official printer

- (a) by the production of a copy thereof or an extract therefrom, purporting to be printed by or by the authority of the legislature, government, Queen's Printer, government printer or other official printer of the country of the British Commonwealth or of the foreign state; or

Copy by custodian

- (b) by the production of a copy thereof or an extract therefrom, whether printed or not, purporting to be certified as a true copy or extract by the minister or head, or the deputy minister or deputy head, of any department of the government of the country of the British Commonwealth or of the foreign state, or by the custodian of the original document or the public records from which the copy or extract purports to be made, or purporting to be an exemplification of the state document under the Great Seal or other state seal of the country of the British Commonwealth or of the foreign state.

Proof of signature of office unnecessary

(4) It is not necessary to prove the signature or official position of the person by whom any copy or extract that is tendered in evidence under this section purports to be certified, or to prove that the original document or the public records from which the copy or extract purports to be made were deposited or kept in the custody of the person so certifying; and where a copy or extract that is tendered in evidence under this section purports to be printed by or for or under the authority of a legislature or government, or of a Queen's Printer, government printer or other official printer, it is not necessary to prove the authority, status or official position of the legislature or government or of the Queen's

Printer, government printer, or other official printer. R.O. 1958, c. 37, s. 30.

EVIDENCE OF OTHER PUBLIC AND CORPORATION DOCUMENTS

31. (1) Where a book or other document is of so public a nature as to be admissible in evidence on its mere production from the proper custody, and no other Ordinance exists that renders its contents provable by means of a copy, a copy thereof or extract therefrom is admissible in evidence, if it is proved that it is a copy or extract or if it purports to be certified to be a true copy or extract by the officer to whose custody the original has been entrusted, without any proof of the signature or of the official character of the person appearing to have signed the same and without further proof thereof. R.O. 1958, c. 37, s. 31.

Copies of public books and documents

32. (1) Where an original document, by-law, rule, regulation or proceeding, or any entry in any register or other book of any corporation created by charter or by or under any statute or ordinance of Canada or of any province is of so public a nature as to be admissible in evidence a copy of the document, by-law, rule, regulation or proceeding or of the entry purporting to be certified under the seal of the corporation, and the hand of the presiding officer, clerk or secretary thereof, is admissible in evidence without proof of the seal of the corporation or of the signature or of the official character of the person appearing to have signed the same, and without further proof thereof. R.O. 1958, c. 37, s. 32.

Proof of corporation documents

33. (1) An order in writing signed by the Secretary of State of Canada, and purporting to be written by command of the Governor General is admissible in evidence as the order of the Governor General, without any proof that the person signing the same is the Secretary of State of Canada or of the signature of such person, and without proof thereof. R.O. 1958, c. 37, s. 33.

Proof of order of Governor General

34. (1) An order in writing signed by a provincial secretary or other corresponding officer of a province and purporting to be written by command of the Lieutenant-Governor or other person in whom the executive powers are vested is admissible in evidence as the order of the Lieutenant-Governor, or such other person without any proof of the official position of the person signing the same or of the signature of such person, and without further proof thereof. R.O. 1958, c. 37, s. 34.

Proof of order of Lieutenant-Governor of a province, etc.

Copies in
Canada Gazette
prima facie

35. (1) All copies of official and other notices, advertisements and documents printed in the *Canada Gazette* or the official gazette of a province are *prima facie* evidence of the originals, and of the contents thereof. R.O. 1958, c. 37, s. 35.

Entries in
departmental
books

36. (1) A copy of an entry, or a statement of the absence thereof in any document belonging to or deposited or kept in any office or department of the Government of Canada or of a province or in the office of any commission, board or other branch of the public service of Canada or of a province is admissible as evidence of the entry, and of the matters, transactions and accounts therein recorded, or of the absence thereof respectively, if it is proved by the oath or affidavit of an officer of the office or department or of the commission, board or other branch of any such public service that

- (a) the document was at the time of the making of the entry, or during the time covered by the statement, one of the ordinary documents kept in such office or department, commission, board or other branch of any such public service;
- (b) the entry was made, or in the case of its absence would have been made, in the usual and ordinary course of business of such office or department, commission, board or branch; and
- (c) such copy is a true copy thereof or that such statement of absence is a true statement. R.O. 1958, c. 37, s. 36.

Privilege in case
of official
documents

37. (1) Where a document is in the official possession, custody or power of a member of the Executive Council of a province or of the Commissioner or of the head of a department of the public service of Canada or of a province, if the deputy head or other officer of the department or an officer in the Public Service of Canada or the province has the record, document, plan, book or paper in his personal possession, and is called as a witness, he is entitled, acting herein by the direction and on behalf of the member of the Executive Council, the Commissioner or head of the department, to object to produce the record, document, plan, book or paper on the ground that it is privileged; and the objection may be taken by him in the same manner, and shall have the same effect, as if the member of the Executive Council, the Commissioner or head of the department were personally present and made the objection. R.O. 1958, c. 37, s. 37.

Definition of
"business"

38. (1) In this section, "business" includes every kind of business, profession, occupation or calling, whether carried on for profit or not.

(2) A record in any business of an act, condition or event, is, insofar as relevant, admissible in evidence, if the custodian of the record or other qualified person testifies to its identity and the mode of its preparation, and to its having been made in the usual and ordinary course of business, at or near the time of the act, condition or event, and if, in the opinion of the court, the source of information, method and time of preparation were such as to justify its admission. R.O. 1958, c. 37, s. 38.

Proof of record of an act, event or condition of any business

39. (1) In this section

Definitions

(a) "person" includes

"person"

- (i) the government of Canada or of any province and any department, commission, board or branch of any such government,
- (ii) a corporation, and
- (iii) the heirs, executors, administrators or other legal representatives of a person; and

(b) "photographic film" includes any photographic plate, microphotographic film and photostatic negative and "photograph" shall have a corresponding meaning.

"photographic film"

(2) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement, document, plan or a record or book, or entry therein kept or held by any person,

Photographic print admissible as evidence

- (a) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof; and
- (b) is destroyed by or in the presence of the person or of one or more of his employees or delivered to another person in the ordinary course of business or lost;

a print from the photographic film is admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

(3) Where a bill of exchange, promissory note, cheque, receipt, instrument, agreement or other executed or signed document was so destroyed before the expiration of six years from

Court may refuse to admit print

- (a) the date when in the ordinary course of business either the object or the matter to which it related ceased to be treated as current by the person having custody or control of the object; or
- (b) the date or receipt by the person having custody or control of the object of notice in writing of any claim

in respect of the object or matter prior to the destruction of the object ;

whichever is the later date, the court may refuse to admit in evidence under this section a print from a photographic film of the object.

Except in case of Government or the Bank of Canada

(4) Where the photographic print is tendered by a government or the Bank of Canada, subsection (3) does not apply.

Proof of compliance with conditions

(5) Proof of compliance with the conditions prescribed by this section may be given by any person having knowledge of the facts either orally or by affidavit sworn before a notary public or a commissioner for oaths and unless the court otherwise orders, a notarial copy of any such affidavit is admissible in evidence in lieu of the original affidavit. R.O. 1958, c. 37, s. 39.

EVIDENCE OF JUDICIAL PROCEEDINGS

Definition of "justice"

40. (1) In this section, "justice" means justice of the peace and includes two or more justices if two or more justices act or have jurisdiction, and also a magistrate, a judge of the Territorial Court and any person having the power or authority of two or more justices of the peace.

Proof of proceedings in a court of record

(2) Evidence of any proceeding or record in, of or before any court of record in the United Kingdom, or the Supreme Court of Canada or the Exchequer Court of Canada, or any court of record or any justice or coroner in a province or in any country of the British Commonwealth or any court of record of any foreign state, may be made in any action by an exemplification or certified copy thereof, purporting to be under the seal of the court or under the hand and seal of the justice or coroner as the case may be, without any proof of the authenticity of the seal or of the signature of the justice or coroner, or other proof ; and if the court, justice or coroner has no seal, and so certifies, then the evidence may be made by a copy purporting to be certified under the signature of a judge or presiding justice of the court, or of the justice or coroner, without any proof of the authenticity of the signature or other proof. R.O. 1958, c. 37, s. 40.

NOTARIAL DOCUMENTS OF QUEBEC

Copies of notarial acts in Quebec

41. (1) A copy of a notarial act or instrument in writing made in the Province of Quebec, before a notary and filed, enrolled or enregistered by the notary, certified by a notary or prothonotary to be a true copy of the original thereby certified to be in his possession as such notary or protho-

tary, is admissible in evidence in the place and stead of the original, and has the same force and effect as the original would have if produced and proved.

(2) The proof by the certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of the Province of Quebec, be taken before a notary, or be filed, enrolled or enregistered by a notary.

Proof by certified copy may be rebutted

(3) No copy of a notarial act or instrument, as provided in this section shall be received in evidence upon any trial unless the party intending to produce the same has, before the trial, given to the party against whom it is intended to be produced reasonable notice of such intention and the reasonableness of the notice shall be determined by the court, but the notice shall not in any case be less than ten days. R.O. 1958, c. 37, s. 41.

Notice

PROTESTS OF BILLS AND NOTES

42. (1) The production in any court of any protest, wherever made, under the hand or seal of one or more notaries public, of a bill of exchange or promissory note, is *prima facie* evidence of the making of such protest, and of the statements therein contained. R.O. 1958, c. 37, s. 42.

Production of protest by notary public of bill of exchange. etc.

43. (1) Any note, memorandum or certificate made by a notary, or firm of notaries, in Canada, in the handwriting of the notary or a member of the firm, signed by the notary or firm at the foot of or embodied in any protest, or in a regular register of official acts kept by such notary or firm, is *prima facie* evidence of the fact of notice of non-acceptance of a bill of exchange or promissory note having been sent or delivered at the time, and in the manner stated in such note, certificate or memorandum. R.O. 1958, c. 37, s. 43.

Any note, etc. made by notary public *prima facie* evidence of non-acceptance. etc., of bill of exchange. etc.

BANK BOOKS

44. (1) Subject to this section, a copy of an entry in any book or record kept in a bank is in all actions to which the bank is not a party, *prima facie* evidence of the entry, and of the matters, transactions and accounts therein recorded.

Copy of bank book, etc., as evidence

(2) A copy of an entry in such book or record shall not be received in evidence under this section unless it is first proved that the book or record was, at the time of the making of the entry, one of the ordinary books or records of the bank, that the entry was made in the usual and ordinary course of

Proof

business, that the book or record is in the custody or control of the bank or its successor, and that the copy is a true copy, and such proof may be given by the manager or accountant or a former manager or accountant of the bank or its successor, and may be given orally or by affidavit.

Bank and officers when bank not a party

(3) A bank or officer of a bank is not, in any action to which the bank is not a party, compellable to produce any book or record the contents of which can be proved under this section, or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court made for special cause.

Order for inspection

(4) On the application of any party to any action the court may order that the party be at liberty to inspect and take copies of any entries in the books or records of the bank for the purposes of the action; the person whose account is to be inspected shall be notified of the application at least two clear days before the hearing thereof, and, if it is shown to the satisfaction of the court that the person cannot be notified personally, the notice may be given by addressing the same to the bank.

Costs

(5) The costs of an application to a court under or for the purpose of this section, and the costs of anything done or to be done under an order of a court made under or for the purposes of this section, are in the discretion of the court; and the court may order the costs or any part thereof to be paid to any party by the bank where they have been occasioned by any act or omission of the bank; any such order against a bank may be enforced as if the bank were a party to the action. R.O. 1958, c. 37, s. 44.

WILLS

Method of proving wills

45. (1) Letters probate of a will, or letters of administration with a will annexed, or a copy thereof certified under the seal of the court of the province in which the probate or letters of administration were granted, are admissible as evidence of the original will and of the death of the testator without any proof of the authenticity of the seal of the court or of the signature of the officer of the court purporting to certify the same, but the court may, upon due cause shown upon affidavit, order the original will to be produced in evidence or may direct such other proof of the original will as under the circumstances appears necessary or reasonable for testing the authenticity of the alleged original will and its unaltered condition and the correctness of the prepared copy.

(2) Letters probate of a will or letters of administration with a will annexed, or a copy thereof certified as provided in subsection (1) shall not be received in evidence upon any trial, without the leave of the court, unless the party intending to produce the same has, at least ten days before the trial, given to the party against whom it is intended to be produced notice of such intention.

Notice of intention to produce probate, etc.

(3) This section applies to letters probate of a will or letters of administration with a will annexed where the will is proved elsewhere than in the Territory, if the original will has been deposited and the letters probate or letters of administration with will annexed were granted in a court having jurisdiction over the proof of wills and administration of the estates or intestates or the custody of wills. R.O. 1958, c. 37, s. 45.

Application

REGISTERED INSTRUMENTS

46. (1) In an action where it would be necessary to produce and prove an original document that has been deposited, filed, kept or registered in any Land Titles Office, or a court registry, or in any public office or court in the Territory, in order to establish the document and the contents thereof, the party intending to prove the original document may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the original document a copy thereof certified by the registrar of the office where the same is so deposited, filed, kept or registered, under his hand and seal of office.

Copies of registered instruments as evidence

(2) A copy certified pursuant to this section is sufficient evidence of the original document and of its validity and contents, without proof that the document was so deposited, filed, kept or registered, unless the party receiving the notice, within four days after its receipt, gives notice that he disputes the validity or contents of the original document.

Copy is sufficient evidence of original unless validity of original disputed

(3) The cost attending any production or proof of the original document is in the discretion of the court. R.O. 1958, c. 37, s. 46.

Costs

47. (1) Where a public officer produces upon a subpoena an original document it shall not be deposited in court, unless otherwise ordered, but if a copy thereof or a part thereof is needed for subsequent reference or use, the copy certified under the hand of the officer producing the docu-

Original document not to be filed in court without order

ment or otherwise proved, shall be filed as an exhibit in the place of the original and the officer shall be entitled to receive in addition to his ordinary fees, the fees for any certified copy, to be paid to him before it is delivered or filed.

Where order made original document to be filed

(2) Where an order is made that the original be retained, the order shall be delivered to the public officer, and the exhibit shall be retained in court and filed. R.O. 1958, c. 37, s. 47.

MERCANTILE DOCUMENTS AND TELEGRAMS

Proof of certain documents

48. (1) A party desiring to give in evidence a telegram, letter, shipping bill, shipping bill of lading, delivery order, receipt, account or other written instrument used in business or other transactions, may give notice to the opposite party, ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends to give in evidence as proof of the contents a writing purporting to be a copy thereof and in the notice shall name some convenient time and place for the inspection thereof.

Inspection

(2) The copy referred to in subsection (1) may, after the giving of the notice referred to in that subsection, be inspected by the opposite party, and shall without further proof be accepted and taken in lieu of the original as proof of the contents of the original unless the party receiving the notice within four days after the time mentioned for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the trial or proceeding, and to require proof of the original and the cost attending any production or proof of the original are in the discretion of the court. R.O. 1958, c. 37, s. 48.

MISCELLANEOUS PROVISIONS AS TO DOCUMENTS AND EVIDENCE

Production of newspaper as evidence of notice inserted therein

49. (1) The production of a printed copy of a newspaper in any action is *prima facie* evidence that any notice or advertisement contained therein was inserted, advertised and published in that newspaper by the person by whom, or in whose behalf, or in whose name, the notice or advertisement purports or appears to be inserted, advertised or published. R.O. 1958, c. 37, s. 49.

Where no attestation required

50. (1) It is not necessary to prove, by the attesting witness, an instrument to the validity of which attestation is not requisite. R.O. 1958, c. 37, s. 50.

51. (1) Comparison of a disputed writing with any writing proved to the satisfaction of the court to be genuine shall be permitted to be made by a witness; and the writing and the evidence of witnesses respecting the same may be submitted to the court or jury as evidence of the genuineness or otherwise of the writing in dispute. R.O. 1958, c. 37, s. 51.

Comparison of
disputed writing
with genuine

52. (1) Where a document is received in evidence, the court admitting the same may direct that it be impounded and kept in such custody for such period and subject to such conditions as may seem proper or until the further order of the courts. R.O. 1958, c. 37, s. 52.

Where instru-
ments offered in
evidence may be
impounded

53. (1) The provisions of this Ordinance shall be deemed to be in addition to and not in derogation of any power of proving documents given by any other law. R.O. 1958, c. 37, s. 53.

Construction of
this Ordinance

HERESAY EVIDENCE CONTAINED IN DOCUMENTS

54. (1) Subject to subsection (2) in an action where direct oral evidence of a fact would be admissible, a statement made by a person in a document and tending to establish that fact is, on production of the original document, admissible as evidence of that fact if the following conditions are satisfied:

Admissibility of
documentary
evidence as to
facts on issue

- (a) if the maker of the statement either
 - (i) had personal knowledge of the matters dealt with by the statement, or
 - (ii) where the document in question is or forms part of a record purporting to be a continuous record, made the statement (insofar as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have, personal knowledge of those matters; and
- (b) if the maker of the statement is called as a witness in the action.

(2) The condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead or unfit by reason of his bodily or mental condition to attend as a witness, or if it is not reasonably practicable to secure his attendance, or if all reasonable efforts to find him have been made without success.

Court may admit documentary evidence without full compliance with subsection (1)

(3) In an action, the court may at any stage of the action, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that the statement mentioned in subsection (1) shall be admissible as evidence or may, without any such order having been made, admit such a statement in evidence

(a) notwithstanding that the maker of the statement is available but is not called as a witness; and

(b) notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or as the court may approve, as the case may be.

Statement must be *ante litem motam*

(4) Nothing in this section renders admissible as evidence a statement made by a person interested at a time when proceedings were pending or anticipated involving, a dispute as to any fact that the statement might tend to establish.

Statement must be authenticated by maker

(5) For the purpose of this section, a statement in a document shall not be deemed to have been made by a person unless the document or the material part thereof was written, made or produced by him with his own hand, or was signed or initialled by him or otherwise recognized by him in writing as one for the accuracy of which he is responsible.

Discretion of court respecting admissibility of statement

(6) For the purpose of deciding whether or not a statement is admissible as evidence by virtue of this section, the court may draw any reasonable inference from the form or contents of the document in which the statement is contained, or from any other circumstances, and may, in deciding whether or not a person is fit to attend as a witness, act on a certificate purporting to be the certificate of a qualified medical practitioner, and where the action is with a jury, the court may in its discretion reject the statement notwithstanding that the requirements of this section are satisfied with respect thereto, if for any reason it appears to it to be inexpedient in the interests of justice that the statement should be admitted.

Construction

(7) Nothing in this section shall be construed to

(a) prejudice the admissibility of any evidence that would apart from the provisions of this section be admissible; or

(b) enable documentary evidence to be given as to any declaration relating to a matter of pedigree, if that declaration would not have been admissible as evidence if this section had not been passed, R.O. 1958, c. 37, s. 54.

55. (1) In estimating the weight, if any, to be attached to a statement rendered admissible as evidence by section 54, regard shall be had to all the circumstances from which any inference can reasonably be drawn as to the accuracy or otherwise of the statement, and in particular to the question whether or not the statement was made contemporaneously with the occurrence or existence of the facts stated, and to the question whether or not the maker of the statement had any incentive to conceal or misrepresent facts.

Weight to be attached to evidence

(2) For the purpose of any rule of law or practice requiring evidence to be corroborated or regulating the manner in which uncorroborated evidence is to be treated, a statement rendered admissible as evidence by section 54 shall not be treated as corroboration of evidence given by the maker of the statement. R.O. 1958, c. 37, s. 55.

Documents not to corroborate evidence of maker

56. (1) In any action, an instrument to the validity of which attestation is required may, instead of being proved by an attesting witness, be proved in the manner in which it might be proved if no attesting witness were alive; but nothing in this section applies to the proof of wills or other testamentary documents. R.O. 1958, c. 37, s. 56.

Proof of document where attestation required

57. (1) In any action there shall, in the case of a document proved or purporting to be a not less than twenty years old, be made any presumption that immediately before the 2nd day of April, 1955, would have been made in the case of a document of like character proved or purporting to be not less than thirty years old. R.O. 1958, c. 37, s. 57.

AFFIDAVITS AND DECLARATIONS

58. (1) An oath, affidavit, affirmation or statutory declaration for use in the Territory may be administered, sworn, affirmed or made within the Territory before

Affidavit, etc., to be taken within the Territory

- (a) a judge of the Territorial Court, justice of the peace, or magistrate in the Territory within his jurisdiction;
- (b) the Clerk and Deputy Clerk of the Court;
- (c) a commissioner for taking oaths within the Territory;
- (d) a notary public appointed for the Territory;
- (e) a barrister or solicitor duly admitted and entitled to practise as such in the Territory;
- (f) a postmaster of any post office appointed under the *Post Office Act*;
- (g) the sheriff or deputy sheriff; or

- (h) a member of the Royal Canadian Mounted Police Force; and every such officer shall designate his office below his signature to the jurat on an affidavit, affirmation or statutory declaration administered, sworn, affirmed or made before him. R.O. 1958, c. 37, s. 58.

Oaths, etc.,
administered by
commissioned
officers

59. (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made within or outside the Territory before a person who holds a commission as an officer in the Canadian Forces and is on full-time service is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Territory before a commissioner for taking affidavits within the Territory.

Admissibility

(2) A document that purports to be signed by a person mentioned in subsection (1) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him and on which his rank and unit are shown below his signature is admissible in evidence without proof of his signature or of his rank or unit or that he is on full-time service. R.O. 1958, c. 37, s. 59.

Oaths, etc.,
administered
outside Territory

60. (1) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside the Territory before

- (a) a judge;
- (b) a magistrate;
- (c) an officer of a court of justice;
- (d) a commissioner for taking affidavits or other competent authority of the like nature;
- (e) a notary public;
- (f) the head of a city, town, village, township or other municipality;
- (g) an officer of any of Her Majesty's diplomatic or consular services, including an ambassador, envoy, minister, charge d'affaires, counsellor, secretary, attache, consul-general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent;
- (h) an officer of the Canadian diplomatic, consular or representative services, including, in addition to the diplomatic and consular officers mentioned in paragraph (g), a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary; or

- (i) a Canadian Government Trade Commissioner or an Assistant Canadian Government Trade Commissioner;

exercising his functions or having jurisdiction or authority as such in the place in which it is administered, sworn, affirmed or made, is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Territory before a commissioner for taking affidavits within the Territory.

(2) An oath, affidavit, affirmation or statutory declaration administered, sworn, affirmed or made outside the Territory before a notary public appointed for the Territory or before a commissioner for taking affidavits within the Territory is as valid and effectual to all intents and purposes as if it had been duly administered, sworn, affirmed or made within the Territory before a commissioner for taking affidavits within the Territory. Idem.

(3) A document that purports to be signed by a person mentioned in subsection (1) or (2) in testimony of an oath, affidavit, affirmation or statutory declaration having been administered, sworn, affirmed or made before him, and on which his office is shown below his signature, and Admissibility

- (a) in the case of a notary public, that purports to have impressed thereon or attached thereto his official seal;
- (b) in the case of a person mentioned in paragraph (1)(f) that purports to have impressed thereon or attached thereto the seal of the municipality; or
- (c) in the case of a person mentioned in paragraph (1)(g), (1)(h) or (1)(i), that purports to have impressed thereon or attached thereto his seal or the seal or stamp of his office or of the office to which he is attached;

is admissible in evidence without proof of his signature, or of his office or official character or of the seal or stamp and without proof that he was exercising his functions or had jurisdiction or authority in the place in which the oath, affidavit, affirmation or statutory declaration was administered, sworn, affirmed or made. R.O. 1958, c. 37, s. 60.

61. (1) No defect, by misdescription of parties or otherwise in the title or jurat of any affidavit, and no other irregularity in the form of any affidavit, affirmation or statutory declaration is an objection to its reception in evidence, if the court before or to whom it is tendered thinks proper to receive it; and the court may direct a memorandum to be made on the document that it has been so received. R.O. 1958, c. 37, s. 61. Formal defects
not to vitiate

Oath may be administered by person so authorized in place where administered

62. (1) Where under any law evidence under oath is authorized or required to be taken, or an oath is authorized or directed to be made, taken or administered, the oath may be administered and a certificate of its having been made, taken or administered may be given by anyone authorized by such law to take the evidence or by anyone authorized to take affidavits under this Ordinance having authority or jurisdiction within the place where the oath is administered. R.O. 1958. c. 37. s. 62.

Proof of death of person in Her Majesty's Forces

63. (1) The production of a certificate in writing signed or purporting to be signed.

- (a) by the Adjutant-General, Deputy Adjutant-General or officer in charge of records, Army Service, Department of National Defence, in the case of a member of Her Majesty's army forces.
- (b) by the Naval Secretary Naval Service, Department of National Defence, in the case of a member of Her Majesty's naval forces.
- (c) by the officer in charge of records, Air Service, Department of National Defence, in the case of a member of Her Majesty's air forces, or
- (d) by an officer of Her Majesty's naval, army or air forces, authorized so to sign, in the case of a member of Her Majesty's forces.

stating that the person named in the certificate was a member of any of Her Majesty's forces, and that he has been officially reported as dead or presumed to be dead, if it appears on the face of the certificate that the person signing is qualified as prescribed in paragraphs (a), (b), (c) or (d), as the case may be, is sufficient proof of the death of such person and of all facts stated in the certificate for any purpose to which the legislative authority of the Commissioner in Council extends and also the office, authority and signature of the person giving or making the certificate, without any proof of his appointment, authority or signature. R.O. 1958. c. 37, s. 63.

POWERS UNDER FOREIGN COMMISSIONS

Examinations of witnesses under commission from courts abroad

64. (1) Where, upon application by motion for this purpose it is made to appear to a court that any court or tribunal of competent jurisdiction in any province or in the United Kingdom or in any British country, or in a foreign state has duly authorized, by commission, order or other process, the obtaining of testimony in or in relation to any action pending in or before the foreign court or tribunal, of any witness out of the jurisdiction thereof, and within the jurisdiction of

the court so applied to, the court may order the examination of the witness accordingly, and in a manner and form directed by the commission, order or other process; and may, by the same order or a subsequent order, command the attendance of any person named therein for the purpose of being examined, or the production of any writings or other documents mentioned in the order; and give all such directions as to the time, place and manner of the examination and all other matters connected therewith as may appear reasonable and just; and the order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by the same court in an action pending in the court.

(2) Every person whose attendance is ordered pursuant to this section is entitled to the like conduct-money and payment for expenses and loss of time as upon attendance at a trial in the court.

Payment of
expenses of
witnesses

(3) Every person examined under a commission, order or other process under this section has the like right to refuse to answer questions that, in an action pending in the court by which the order for examination was made, the witness would be entitled to refuse to answer; and no person shall be compelled to produce at the examination any writing or document that he would not be compellable to produce at the trial of such an action.

Right of refusal
to answer
questions and to
produce docu-
ments

(4) Where the commission, order or other process directs, or the instructions of the court accompanying the same direct, that the persons to be examined shall be sworn or shall affirm before the commissioner or other person, the commissioner or other person has authority to administer an oath or affirmation to the person to be examined. R.O. 1958, c. 37, s. 64.

Commissioner,
etc., may
administer
oaths, etc.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER E-7

EXEMPTIONS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Exemptions Ordinance*. R.O. 1958, c. 38, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“creditor” means a party or person who is entitled to receive payment or to enforce a judgment or order; “creditor.”

“debtor” means a party or person to make payment under any judgment or order or against whom the same may be enforced; “debtor”

“writ of execution” includes a writ of *fiery facias* and every subsequent writ for giving effect thereto issued according to the provisions of the *Judicature Ordinance*. R.O. 1958, c. 38, s. 2. “writ of execution”

EXEMPTIONS

3. (1) The following real and personal property is exempt from seizure under any writ of execution: Chattels exempt from seizure

- (a) the household furniture, utensils and equipment that are contained in and form part of the permanent home of a debtor, but not including furniture, utensils or equipment purchased for defeating the claims of creditors, except that under a writ of execution issued upon a judgment given upon a claim for clothing, food, fuel or shelter supplied for the debtor or his family the exemption under this paragraph is limited to household furniture, utensils and equipment not exceeding in value two hundred dollars;
- (b) the necessary and ordinary wearing apparel of the debtor and his family;
- (c) the food, fuel and other necessaries of life required by the debtor and his family for the next ensuing twelve months;
- (d) live-stock, fowl, bees, books, tools and implements and other chattels necessary to and actually in use by the

debtor in his business, profession or calling to the extent of six hundred dollars; and

- (e) the house and buildings occupied by the debtor and the lot on which they are situated to the extent of three thousands dollars. R.O. 1958, c. 38, s. 3.

Debtor's rights where imple-ments sold

4. (1) The debtor may, in lieu of the chattels referred to in paragraph 3(d), elect to receive the proceeds of the sale thereof up to six hundred dollars, in which case the officer executing the writ of execution shall pay to the debtor the net proceeds of the sale if they do not exceed six hundred dollars, or if they do exceed six hundred dollars, shall pay six hundred dollars to the debtor in satisfaction of his right to exemption under paragraph 3(d). R.O. 1958, c. 38, s. 4.

Money derived from sale of exempted goods

5. (1) The sum to which the debtor is entitled under paragraph 3(d) or under section 4 is exempt from attachment or seizure at the instance of a creditor. R.O. 1958, c. 38, s. 5.

No exemption where debt is for chattel seized

6. (1) Nothing in this Ordinance exempts any article including fuel, except beds, bedding and bedsteads including cradles in ordinary use by the debtor and his family and except necessary and ordinary wearing apparel of the debtor and his family, from seizure to satisfy a debt contracted for such article. R.O. 1958, c. 38, s. 6.

Deceased debtor

7. (1) Chattels of a debtor exempt from seizure are exempt from the claims of his creditors after his death, and his widow is entitled to retain them for the benefit of herself and his family, or, if there is no widow, the family of the debtor is entitled to them. R.O. 1958, c. 38, s. 7.

Right of selection

8. (1) The debtor, his widow or family, or in the case of infants, their guardian, may select out of any larger number the chattels exempt from seizure. R.O. 1958, c. 38, s. 8.

Application

- 9.** (1) Section 3 does not apply
- (a) to cases where a debtor has absconded or is about to abscond from the Territory leaving no wife or family behind; or
 - (b) to writs of execution issued upon judgment or orders for the payment of alimony or judgments founded upon separation agreements. R.O. 1958, c. 38, s. 9.

CHAPTER E-8

EXPROPRIATION ORDINANCE

1. This Ordinance may be cited as the *Expropriation Ordinance*. 1971 (1st) c. 6, s. 1. Short title

2. (1) In this Ordinance Definitions

“expropriation” means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers; “expropriation”

“expropriating authority” means any person empowered to acquire land by expropriation; “expropriating authority”

“land” includes any estate, term, easement, right or interest in, to, over or affecting land; “land”

“owner” includes a mortgagee, lessee, tenant, occupant, execution creditor, a person entitled to a limited estate or interest in land, the Public Administrator or the trustees of the estate of an insane person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested; “owner”

“registered owner” means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the proper registry, Land Titles or Sheriff’s Office, and includes a person shown as a tenant of land on the last revised assessment roll; “registered owner”

“serve” means to serve personally or by registered letter addressed to the person to be served at his last known address, or, if that person is unknown, or if his address is unknown, by publication once a week for four weeks in a newspaper having general circulation in the locality in which the land concerned is situated. 1971 (1st) c. 6, s. 2. “serve”

3. (1) Subject to this Ordinance, the Commissioner may, without the consent of the owner, enter upon and expropriate any land that he deems necessary for the public purposes of the Territory or at the request of any municipality for the public purposes of any municipality. Commissioner may expropriate

- Compensation (2) Compensation for disturbance, injurious affection of land or expropriation of land shall be assessed and paid in the manner provided in this Ordinance. 1971 (1st) c. 6, s. 3.
- Application 4. (1) Where land is expropriated or is injuriously affected by an expropriating authority in the exercise of its statutory powers, this Ordinance applies.
- Conflict (2) Where there is conflict between a provision of this Ordinance and a provision of any other Ordinance, this Ordinance prevails. 1971 (1st) c. 6, s. 4.
- Commissioner bound 5. (1) This Ordinance binds the Commissioner. 1971, (1st) c. 6, s. 5.
- Vesting of title 6. (1) Where an expropriating authority has exercised its statutory powers to expropriate land, it shall register without undue delay in the Land Titles Office a plan of the land signed by the expropriating authority and by a Dominion Land Surveyor, and thereupon, but not otherwise, the land vests in the expropriating authority.
- Where land required temporarily, etc. (2) Where the land is required for a limited time only or only a limited estate, right or interest therein is required, the plan registered under this section shall indicate by appropriate words thereon that the land is taken for such limited time only or that only such limited estate, right or interest therein is taken, and, by the registration in such case, the land for such limited time or such limited estate, right or interest therein vests in the expropriating authority.
- Correction of errors (3) In the case of an omission, misstatement, or erroneous description in a plan registered under this section, the expropriating authority may register in the Land Titles Office a plan replacing or amending the original plan and signed by the expropriating authority and by a Dominion Land Surveyor, and a plan registered under this subsection shall be marked to show the nature of the replacement or amendment and is of the same force and effect as, and is in substitution for, the original plan to the extent that such plan is replaced or amended thereby.
- Presumption as to signing (4) Where a plan purports to have been signed by an expropriating authority under this section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the tribunal determining compensation under this Ordinance.

(5) Where a limited estate, right or interest in land is being taken for an electrical transmission or distribution line carried on single poles, the expropriating authority may, before registering a plan under subsection (1), register in the Land Titles Office, a preliminary plan, to be known as and marked "Preliminary Plan" and being a plan with or without local description, signed by the expropriating authority and illustrating the location of the proposed line and indicating by appropriate words thereon the nature of the estate, right or interest being taken, and such preliminary plan when registered has the same force and effect as a plan registered under subsection (1), but a plan in accordance with subsection (1) shall be registered within two years after the registration of the preliminary plan in substitution for the preliminary plan. 1971 (1st) c. 6, s. 6.

Electrical lines

7. (1) Where a plan has been registered under section 6, and no agreement as to compensation has been made with the owner, the expropriating authority may serve the owner, and shall serve the registered owner, within sixty days after the date of registration of the plan, with a notice of expropriation of his land in the prescribed form, but failure to serve the notice does not invalidate the expropriation.

Notice of expropriation

(2) Where a plan has been registered under section 6 and a notice of expropriation has not been served in accordance with subsection (1), the registered owner may elect, by notice in writing served upon the expropriation authority

Where notice not served

- (a) to have the compensation to which he is entitled assessed as of the date of the registration of the plan under section 6, or
- (b) to have the compensation to which he is entitled assessed as of the date on which he was served with the notice of expropriation. 1971 (1st) c. 6, s. 7.

8. (1) Where land is expropriated or is injuriously affected by an expropriating authority in the exercise of its statutory powers, the expropriating authority shall make due compensation to the owner of the land for the land expropriated or for any damage necessarily resulting from the exercise of such powers, as the case may be, beyond any advantage that the owner may derive from any work for which the land was expropriated or injuriously affected.

Right to compensation

(2) Where land is expropriated or is injuriously affected by an expropriating authority in the exercise of its statutory powers, the expropriating authority may, for the purpose of benefiting the owner, before the compensation is agreed upon

Reparation

or determined, undertake to make alterations or additions or to construct additional work or to abandon part of the land expropriated or to grant other lands or easements, in which case the compensation shall be determined having regard to such undertakings, and, if the undertaking has not already been carried out, the tribunal determining compensation shall declare that, in addition to the compensation determined, if any, the owner is entitled to have such alteration or addition made or such additional work constructed or such part of the land abandoned or such grant made to him. 1971 (1st) c. 6, s. 8.

Compensation
assessed

9. (1) Compensation in respect of any compulsory acquisition shall be assessed in accordance with the following rules:

- (a) The value of land shall, subject as hereinafter provided, be taken to be the amount which the land if sold in the open market by a willing seller to a willing buyer might be expected to realize.
- (b) An allowance may be made on account of the acquisition being compulsory.
- (c) The special suitability or adaptability of the land for any purpose shall not be taken into account if that purpose is a purpose to which it could be applied only in pursuance of statutory powers, or for which there is no market apart from the special needs of a particular purchaser or the requirement of any authority possessing compulsory purchase powers.
- (d) Where the value of the land is increased by reason of the use thereof or of any premises thereon in a manner which could be restrained by any court, or is contrary to law, or is detrimental to the health of the occupants of the premises or to the public health, the amount of that increase shall not be taken into account.
- (e) Where land is, and but for the compulsory acquisition would continue to be, devoted to a purpose of such a nature that there is no general demand or market for land for that purpose, the compensation may, if the tribunal is satisfied that reinstatement in some other place is *bona fide* intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.
- (f) The provisions of rule (a) shall not affect the assessment of compensation for disturbance or any other matter not directly based on the value of land.
- (g) No account shall be taken of any change or anticipated change in the value of land attributable to the carrying out or the prospect of carrying out a development

for the purpose of which the land is being acquired.
1971 (1st) c. 6, s. 9.

10. (1) The provisions of this section shall apply to the expropriation of any home. Application to home

(2) A home is a house which is and has been for a reasonable time the home of a person with the land immediately appurtenant thereto not exceeding one and one-half acres and any immediately appurtenant outbuildings. Definition of home

(3) In the case of any such expropriation, the principle of assessment shall be that the owner of the home shall receive such compensation as will at current costs and prices put him in a position to acquire by purchase or construction a home reasonably equivalent to that which is being expropriated. 1971 (1st) c. 6, s. 10. Owner to receive compensation

11. (1) Subject to subsection (2), a claim for compensation for injuriously affected land caused by an expropriating authority where no land was expropriated shall be made by the owner of the land in writing with particulars of the claim within one year after the damage was sustained or after it became known to the owner, and, if not so made, the right to compensation is forever barred. Claim for compensation for injurious affection

(2) Where the owner of land that is injuriously affected is an infant, an insane person or a person incapable of managing his affairs, his claim for compensation shall be made within one year after he ceased to be under the disability, or, in the case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation is forever barred. 1971 (1st) c. 6, s. 11. Where owner under disability

12. (1) Where land has been expropriated from an owner and a plan has been registered under section 6 and no agreement as to compensation has been made with the owner, the expropriating authority shall within six months after the date of registration of the plan and before taking possession of the land, serve upon the registered owner and offer in full payment of the compensation for all interests in the land, but failure to serve the offer does not invalidate the expropriation. Offer of compensation for land expropriated

(2) The expropriating authority may, within the six-month period mentioned in subsection (1) and before taking possession of the land, upon giving at least seven days notice to the registered owner, apply to a judge for an order extending the time for serving the offer under subsection (1). Extension of period

Failure to serve (3) If the offer required to be served under subsection (1) is not served within the time limited by subsection (1) or by an order of a judge under subsection (2), interest at bank rate upon any compensation payable to the registered owner shall be calculated from the date of registration of the plan. 1971 (1st) c. 6, s. 12.

Choice of proceedings, negotiation or arbitration **13.** (1) Where the expropriating authority and the owner have failed to agree upon the compensation payable, either party may serve notice of negotiation upon the other and upon a Board of Negotiation stating that it requires the compensation to be negotiated under section 14, or, where the parties are in agreement on the matter, they may have the compensation determined by arbitration. 1971 (1st) c. 6, s. 13.

Board of Negotiation **14.** (1) A Board of Negotiation shall be established consisting of two or more members appointed by the Commissioner, one of whom may be designated as Chairman.

Quorum (2) Any two of the members of the Board of Negotiation constitute a quorum and are sufficient to perform all the functions of the Board on behalf of the Board.

Negotiation of amount of compensation (3) In any case in which a notice of negotiation is served, the Board of Negotiation shall, upon reasonable notice to the expropriating authority and the owner, meet with them and, without prejudice to any subsequent proceedings, proceed in a summary and informal manner to negotiate a settlement of the compensation.

Inspection of land (4) Before or during the negotiation proceedings, the Board of Negotiation may inspect the land that has been expropriated or injuriously affected.

Where no settlement reached (5) If the negotiation proceedings do not result in a settlement, the expropriating authority or the owner may serve notice of arbitration upon the other requiring the compensation to be determined by arbitration as though the negotiation proceedings had not taken place, in which case the claim shall be determined by a judge and the provisions of the *Arbitration Ordinance* as to procedure shall apply.

(6) Notwithstanding subsection (5) where the amount of compensation offered by the expropriating authority does not exceed one thousand dollars, the claim shall be determined by a magistrate and the provisions of the *Arbitration Ordinance* as to procedure shall apply. 1971 (1st) c. 6, s. 14.

15. (1) The expropriating authority or the owner may appeal to the Court of Appeal from any determination or order of a judge under subsection 14(5). Appeals

(2) The practice and procedure as to the appeal and proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the Court, except that the appeal may be taken at any time within six weeks from the day the determination or order was sent by registered mail to the parties, and the determination or order shall be deemed to have been received on the seventh day following its mailing, and the period of any vacation of the Magistrate's Court shall not be reckoned in computing such six weeks.

(3) Where a claim has been determined by a magistrate pursuant to subsection 14 the expropriating authority or owner may appeal to the Court from any determination or order of the Magistrate and the practice and procedure as to the appeal proceedings incidental thereto are the same *mutatis mutandis* as upon an appeal from the Magistrate's Court to the Court except that the appeal may be taken at any time within six weeks from the day the determination or order was sent by registered mail to the parties, and the determination or order shall be deemed to have been received on the seventh day following its mailing. 1971 (1st) c. 6, s. 15.

16. (1) Subject to subsection 7(2), where land has been expropriated, the compensation therefor shall be determined as of the date of registration of the plan under subsection 6(1) or 6(5). 1971 (1st) c. 6, s. 16.

17. (1) The tribunal determining compensation under this Ordinance may award costs, but, in determining the amount of costs shall have regard to the reasonableness of the costs and expenses incurred in relation to the difference between the amount of the offer made by the expropriating authority and the amount of compensation determined by the tribunal. 1971 (1st) c. 6, s. 17.

18. (1) Subject to subsection 12(3), the tribunal determining compensation may allow interest at bank rate on the amount of compensation from the date fixed by the tribunal. Interest

(2) Where the tribunal determining compensation is of the opinion that any delay in determining the compensation is attributable in whole or in part to the owner, it may refuse to allow him interest for the whole or any part of the time for which he might otherwise be entitled to interest, or may Idem.

allow interest at a rate less than bank rate that appears reasonable.

Where no interest and costs

(3) Notwithstanding subsection (1), where the expropriating authority has offered to the registered owner, under section 12, a sum equal to or greater than the compensation determined, the registered owner shall not be allowed any interest after the date of the offer or any costs, unless the tribunal determining the compensation otherwise orders. 1971 (1st) c. 6, s. 18.

Character of compensation

19. (1) Where land has been expropriated, the compensation stands in the stead of the land, and any claim to or encumbrance on the land is, as respects the expropriating authority, converted into a claim to or upon the compensation and no longer affects the land.

Payment of compensation not exceeding one thousand dollars

(2) Where the owner entitled to convey the land that has been expropriated and the expropriating authority agree as to the compensation or the compensation has been determined and in either case it does not exceed one thousand dollars, the expropriating authority may pay the compensation to the owner who is entitled to convey the land, saving always the rights of any other person to the compensation as against the person receiving it, and such payment discharges the expropriating authority from all liability in respect of the compensation. 1971 (1st) c. 6, s. 19.

Representative

20. (1) Where an owner of the land is unknown, is under disability or for any other reason is not represented, a judge may, after due notice to the persons interested, appoint a person to represent such owner for any of the purposes of this Ordinance, and any action of a person so appointed is binding on the person he represents. 1971 (1st) c. 6, s. 20.

Payment into court

21. (1) In any case where the expropriating authority deems it advisable, it may, without an order, pay the compensation agreed upon or determined into the office of the Clerk of the Court together with a sum equal to the interest thereon at bank rate for six months.

Payment out of court

(2) Upon an application for payment out of court of compensation paid into court, a judge may direct that such notice of the application be given by publication or otherwise as he deems proper and may direct the trial of an issue or make such order with respect to the payment out of court of compensation and as to costs as he deems reasonable.

(3) Where an order is obtained under subsection (2) in less than six months after the payment of the compensation into court, the judge making the order may direct that a proportionate part of the interest be returned to the expropriating authority.

Adjustment of interest

(4) Where unborn issue or an unascertained person or class is interested in compensation paid into court, a judge may appoint such person as he deems proper to represent them, and any order made under this section is binding on them. 1971 (1st) c. 6, s. 21.

Where unborn issue interested

22. (1) Where land has been expropriated and the compensation has not been agreed upon or determined, the expropriating authority, before taking possession of the land, shall offer to the registered owner the amount to which he may be entitled as estimated by the expropriating authority. 1971 (1st) c. 6, s. 22.

Payment before possession

23. (1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with a notice that it requires possession of the land on the date specified therein, the expropriating authority, if no application is made under subsection (3), is entitled to enter upon and take possession of the land on the date specified in the notice.

Possession of expropriated land

(2) The date for possession shall be at least ten days after the date of the serving of the notice of possession.

Date for possession

(3) A registered owner or an expropriating authority may, upon such notice as the judge directs, apply to a judge for an adjustment of the date for possession specified in the notice of possession, and the judge, if he considers that under all the circumstances the application should be granted, may fix the date for possession. 1971(1st) c. 6, s. 23.

Application for postponement of possession

24. (1) Where resistance or opposition is made to the expropriating authority or any person authorized by it in entering upon, using or taking possession of land when it is entitled so to do, it may apply to a judge for a warrant directing the sheriff to put the expropriating authority into possession.

Warrant to put the expropriating authority into possession

(2) The judge shall, in writing, appoint a time and place for the hearing of the application and in his appointment may direct that it shall be served upon such persons as he prescribes.

Hearing

Issue of warrant (3) On proof of the resistance or opposition, the judge may issue a warrant in the prescribed form.

Return (4) The sheriff shall forthwith execute the warrant and make a return to the judge of the execution thereof. 1971 (1st) c. 6, s. 24.

Abandonment of expropriated land 25. (1) Where, at any time before the date specified in the notice of possession served under section 23, the land or any part thereof is found to be unnecessary for the purposes of the expropriating authority or if it is found that a more limited estate or interest therein only is required, the expropriating authority may, by an instrument signed by it and registered in the Land Titles Office and served on the owner who was served with notice of expropriation, declare that the land or such part thereof is not required and is abandoned by the expropriating authority or that it is intended to retain only such limited estate or interest as is mentioned in the instrument, and thereupon:

- (a) the land declared to be abandoned reverts in the owner from whom it was expropriated and those entitled to claim under him; or
(b) in the event of a limited estate or interest only being retained by the expropriating authority, the land so reverts subject to such limited estate or interest.

Partial abandonment (2) Where only part of the land or all of it except a limited estate or interest therein is abandoned, the fact of such abandonment and the damage, if any, sustained in consequence of that which is abandoned having been expropriated and all the other circumstances of the case shall be taken into account in determining the compensation for the part or the limited estate or interest that is not abandoned.

Complete abandonment (3) Where the whole of the land is abandoned, the owner from whom it was expropriated is entitled to compensation for all damages sustained and all costs incurred by him in consequence of the expropriation and abandonment, and the amount of the compensation, if not agreed upon by the parties, shall be determined under this Ordinance. 1971 (1st) c. 6, s. 25.

26. (1) The Commissioner may make regulations respecting any matter he deems necessary or advisable to carry out effectively the intent and purpose of this Ordinance. 1971 (1st) c. 6, s. 26.

CHAPTER F-1

FACTORS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Factors Ordinance*. Short title R.O. 1958, c. 39, s. 1.

INTERPRETATION

2. (1) In this Ordinance

Definitions "document of title"

"document of title" includes any bill of lading, dock warrant, warehousekeeper's certificate or warrant or order for the delivery of goods and any other documents used in the ordinary course of business as proof of the possession or control of goods or authorizing or purporting to authorize either by endorsement or delivery the possessor of the document to transfer or receive goods thereby represented ;

"goods" includes wares and merchandise ;

"goods"

"mercantile agent" means a mercantile agent having in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale or to buy goods or to raise money on the security of goods ;

"mercantile agent"

"pledge" includes a contract pledging or giving a lien or security on goods whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability.

"pledge"

(2) A person is deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or in his behalf. R.O. 1958, c. 39, s. 2.

DISPOSITIONS BY MERCANTILE AGENTS

3. (1) Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods, any sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business of a mercantile agent is, subject to this Ordinance, as valid as if he were expressly authorized by the owner of the goods to make the same, if the person taking under the disposition

Powers of mercantile agents respecting disposition of goods

acts in good faith and has not at the time of the disposition notice that the person making the disposition has not authority to make the same.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title to goods, any sale, pledge or other disposition that would have been valid if the consent had continued, is valid notwithstanding the termination of the consent, if the person taking under the disposition has not at the time thereof notice that the consent has been terminated.

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been with the consent of the owner in possession of the goods represented thereby or by any other documents of title to the goods, his possession of the first-mentioned documents is for the purposes of this Ordinance deemed to be with the consent of the owner.

(4) For the purposes of this Ordinance the consent of the owner shall be presumed in the absence of evidence to the contrary. R.O. 1958, c. 39, s. 3.

Effect of pledge of documents of title

4. (1) A pledge of the documents of title to goods is deemed to be a pledge of the goods. R.O. 1958, c. 39, s. 4.

Pledge for antecedent debt

5. (1) Where a mercantile agent pledges goods as security for a debt or liability due from the pledger to the pledgee before the time of the pledge, the pledgee acquires no further right to the goods than could have been enforced by the pledger at the time of the pledge. R.O. 1958, c. 39, s. 5.

Rights acquired by exchange of goods or documents

6. (1) The consideration necessary for the validity of a sale, pledge or other disposition of goods pursuant to this Ordinance may be either a payment in cash or the delivery or transfer of other goods or of a document of title to goods or of a negotiable security or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods or of a document of title to goods or of a negotiable security the pledgee acquires no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange. R.O. 1958, c. 39, s. 6.

Agreements through clerks, etc.

7. (1) For the purposes of this Ordinance an agreement made with a mercantile agent through a clerk or other person authorized in the ordinary course of business to make con-

tracts of sale or pledge on his behalf is deemed to be an agreement with the agent. R.O. 1958, c. 39, s. 7.

8. (1) Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale or has shipped the goods in the name of another person and the consignee of the goods has not had notice that such person is not the owner of the goods, the consignee, in respect of advances made to or for the use of such person, has the same lien on the goods as if such person were the owner of the goods and may transfer any such lien to another person.

Provisions as to consignors and consignees

(2) Nothing in this section limits or affects the validity of a sale, pledge or disposition by a mercantile agent. R.O. 1958, c. 39, s. 8.

DISPOSITIONS BY BUYERS AND SELLERS OF GOODS

9. (1) Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale has the same effect as if the person making the delivery or transfer were expressly authorized by the owner of the goods to make the same. R.O. 1958, c. 39, s. 9.

Disposition by seller remaining in possession

10. (1) Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods has the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with consent of the owner. R.O. 1958, c. 39, s. 10.

Disposition by buyer obtaining possession

11. (1) Where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration the last-mentioned transfer has the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the

Effect of transfer of documents on vendor's lien or right of stoppage *in transitu*

transfer of a bill of lading has for defeating the right of stoppage *in transitu*. R.O. 1958, c. 39, s. 11.

SUPPLEMENTAL

Mode of transferring documents

12. (1) For the purposes of this Ordinance the transfer of a document may be by endorsement or where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer then by delivery. R.O. 1958, c. 39, s. 12.

Liability of agent

13. (1) Nothing in this Ordinance authorizes an agent to exceed or depart from his authority as between himself and his principal or exempt him from any liability civil or criminal for so doing.

Saving for rights of true owner

(2) Nothing in this Ordinance shall be construed to prevent the owner of goods from recovering the goods from an agent or assignee under an assignment for the benefit of creditors at any time before the sale or pledge thereof or to prevent the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof on satisfying the claim for which the goods were pledged and paying to the agent, if required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto or any of them by way of lien as against the owner or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

(3) Nothing in this Ordinance shall be construed to prevent the owner of goods sold by an agent recovering from the buyer the price agreed to be paid for the same or any part of that price subject to any right of set-off on the part of the buyer against the agent. R.O. 1958, c. 39, s. 13.

Saving for common law powers of agent

14. (1) The provisions of this Ordinance shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Ordinance. R.O. 1958, c. 39, s. 14.

LIABILITY OF AGENT OF NON-RESIDENT PRINCIPAL

Person acting as agent to be liable unless full name, etc., of principal disclosed

15. (1) Any one acting as an agent, partner or in some other capacity in any trading, business or calling, in the Territory, for or on behalf of any person, partnership, association or company, not having his or its principal place of business in the Territory, or not having a regular place of

business in the Territory, is personally liable upon any contract, transaction or obligation whatsoever which may be entered into, made, or incurred in the Territory for, or in the course of business, trade or calling of such person, partnership, association or company, unless he or it has previously disclosed the full name and residence of the partners composing the partnership, and if an association or a company, the principal place of business of that association or company, by a declaration registered at the office of the registration clerk of the registration district established under the *Bills of Sale Ordinance* where such contract, obligation or transaction was made or incurred, in addition to any law or Ordinance in force in the Territory concerning the registration of trading, partnership, association or company.

(2) Where a judgment is obtained against a person who has acted as an agent, partner or in some other capacity for or on behalf of a person, partnership, association or company described in subsection (1) and the judgment is based upon a contract, transaction or obligation entered into, made or incurred for, or on behalf of the person, partnership, association or company, execution may be issued and satisfied out of the assets of the person, partnership, association or company as well as out of the assets of the person who has acted as agent, partner or other capacity. R.O. 1958, c. 39, s. 15.

Execution may
issue against
principal as well
as agent

CHAPTER F-2

FAIR PRACTICES ORDINANCE

1. This Ordinance may be cited as the *Fair Practices Ordinance*. 1963 (2nd) c. 3, s. 1. Short title

2. (1) In this Ordinance Definitions

“employee” means any person who is in receipt of, or entitled to, compensation for labour or services performed for another, but does not include an independent contractor; “employee”

“employer” means a person, firm, corporation, agent, manager, representative, contractor, subcontractor, or principal, having control or direction of, or responsible, directly or indirectly, for the employment of an employee; “employer”

“employers’ organization” means an organization of employers formed for purposes that include the regulation of relations between employers and employees; “employers’ organization”

“employment agency” includes a person who undertakes, with or without compensation, to procure employment for persons; “employment agency”

“trade union” means any organization of employees formed for the purpose of regulating relations between employees and employers. 1963 (2nd) c. 3, s. 2. “trade union”

3. (1) No employer shall refuse to employ, or to continue to employ, a person or adversely discriminate in any term or condition of employment of such person, because of the race, religion, religious creed, colour, ancestry, or ethnic or national origin of such person. Employers not to discriminate

(2) No person shall require an applicant for employment to complete a form of application for employment that requires the applicant to give particulars as to his race, religion, religious creed, colour, ancestry, or ethnic or national origin. Discriminatory application forms

(3) No trade union shall exclude any person from full membership, or expel or suspend or otherwise discriminate against any of its members, or discriminate against any person in regard to his employment by any employer, because of the race, religion, religious creed, colour, ancestry, or ethnic or national origin of that person. Membership in trade unions

Discharge,
expulsion, etc.

(4) No employer or trade union shall discharge, expel or otherwise discriminate against any person because he has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Ordinance. 1963 (2nd) c. 3, s. 3.

Discrimination
prohibited

4. (1) No person shall, because of the race, religion, religious creed, colour, ancestry, or ethnic or national origin of any person, deny to that person the accommodation, services or facilities available in any place to which the public is customarily admitted.

(2) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

(a) deny to any person or class of persons occupancy of any apartment in any building that contains more than six self-contained dwelling units, or

(b) discriminate against any person or class of persons with respect to any term or condition of occupancy of any apartment in any building that contains more than six self-contained dwelling units,

because of the race, creed, colour, nationality, ancestry or place of origin of such person or class of persons. 1963 (2nd) c. 3, s. 4.

Publication of
discriminatory
signs prohibited

5. (1) No person shall

(a) publish or display or cause to be published or displayed, or

(b) permit to be

(i) published in a newspaper that he controls, or

(ii) displayed on lands or premises that he controls,

any notice, sign, symbol, emblem or other representation indicating discrimination, or an intention to discriminate, against any person or any class of persons in respect of the accommodation, services or facilities to which section 4 applies, or in respect of employment or prospective employment, because of the race, religion, religious creed, colour, ancestry, or ethnic or national origin of that person or class of persons. 1963 (2nd) c. 3, s. 5.

Complaint

6. (1) Any person claiming to be aggrieved because of an alleged violation of any provision of this Ordinance may make a complaint in writing to the officer appointed by the Commissioner to inquire into complaints made under this Ordinance.

(2) The Commissioner may appoint an officer to inquire into any complaint made under subsection (1), and such officer shall give full opportunity to all parties to present evidence and make representations and shall endeavour to effect settlement of the matters complained of.

Officer appointed to hear complaint

(3) In case a settlement of a complaint is not effected, if the officer finds that the complaint is supported by evidence, he shall recommend to the Commissioner the course that ought to be taken with respect to the complaint.

Recommendations of officer to Commissioner

(4) After the officer has made his recommendations, the Commissioner may direct him to clarify or amplify his recommendations; and they shall be deemed not to have been received by the Commissioner until they have been so clarified or amplified.

Clarifications of recommendations

(5) Upon receipt of the recommendations of the officer, the Commissioner shall furnish a copy thereof to each of the persons affected and shall publish them, if he deems it advisable, in such manner as he sees fit.

Copy of recommendations to persons affected

(6) The Commissioner may issue whatever order he deems necessary to carry into effect the recommendations of the officer, including ordering reinstatement of an employee with or without compensation for loss of employment and such order shall be personally served upon the persons affected thereby. 1963 (2nd) c. 3, s. 6.

Order of Commissioner

7. (1) Any person affected by an order of the Commissioner may, at any time within ten days after personal service of the order upon him, appeal against the order to a judge by way of originating notice of motion to vary or set aside the order.

Appeal

(2) The appellant shall, not less than ten days before the date for the hearing of the appeal stated in the originating notice of motion, serve on the complainant and on the Commissioner a copy of the originating notice of motion.

Service of notice

(3) The judge may hear the appeal on the day and at the time stated in the originating notice of motion or may adjourn the hearing for such time as he deems fit, and may direct notice thereof to be served on such other persons as he deems advisable; and the hearing thereof shall be a trial *de novo* and the decision of the judge shall be conclusive and not subject to further appeal.

Hearing of appeal and effect of decision

(4) Every person in respect of whom an order is made pursuant to subsection 6(6) shall comply therewith, unless he

appeals therefrom as herein provided ; in which event, unless it is set aside, he shall comply with the order as affirmed or as varied on the appeal. 1963 (2nd) c. 3, s. 7.

Offences

8. (1) Every person who violates a provision of this Ordinance commits an offence and is liable on summary conviction

(a) if an individual, to a fine of one hundred dollars and in default of payment, to imprisonment for a period not exceeding three months, and

(b) if a corporation, trade union, employers' organization or employment agency, to a fine not exceeding five hundred dollars.

Idem

(2) Where a fine that is imposed upon a corporation under subsection (1) is not paid as directed, the prosecutor may, by filing the conviction, enter as a judgment the amount of the fine and costs, if any, in the Territorial Court and that judgment is enforceable against the corporation in the same manner as if it were a judgment rendered against the corporation in that Court in civil proceedings. 1963 (2nd) c. 3, s. 8.

Payment to employee and reinstatement

9. (1) Where an employer is convicted for violation of section 3 by reason of his having suspended, transferred, laid off, or discharged an employee contrary to this Ordinance, the convicting judge or magistrate, in addition to any other penalty, may order the employer to pay to the employee compensation for loss of employment not exceeding such sum as, in the opinion of the judge or magistrate, as the case may be, is equivalent to the wages, salary or remuneration that would have accrued to the employee up to the date of conviction but for the suspension, transfer, lay-off or discharge; and may order the employer to reinstate the employee in his employ at such date as, in the opinion of the judge or magistrate, is just and proper in the circumstances, in the position the employee would have held but for the suspension, transfer, lay-off or discharge. 1963 (2nd) c. 3, s. 9.

Prosecution of employers' organization or trade union

10. (1) A prosecution for an offence under this Ordinance may be brought against an employers' organization or trade union; and for the purpose of such a prosecution an employers' organization or trade union shall be deemed to be a person, and any act or thing done or omitted by an officer or agent of an employers' organization or trade union, within the scope of his authority to act on behalf of the organization or trade union, shall be deemed to be an act or thing done or

omitted by the employers' organization or trade union. 1963 (2nd) c. 3, s. 10.

11. (1) Where a person has been convicted of a violation of this Ordinance, the Commissioner may apply, by way of originating notice, to a judge for an order enjoining that person from continuing the violation and the judge, in his discretion, may make such an order. Injunction proceedings

(2) Any order made by a judge pursuant to subsection (1) may be enforced in the same manner as any other order or judgment of the Court. 1963 (2nd) c. 3, s. 11. Idem.

12. (1) No prosecution for an offence under this Ordinance shall be instituted without the consent in writing of the Commissioner. 1963 (2nd) c. 3, s. 12. Consent to prosecution

13. (1) This Ordinance does not apply to employment of persons Where Ordinance not applicable

- (a) in domestic service in a private home ;
- (b) in any exclusively charitable, philanthropic, educational, fraternal, religious, or social organization or corporation that is not operated for private profit ;
- (c) in any organization that is operated primarily to foster the welfare of a religious or racial group and that is not operated for private profit ; or
- (d) where the employer employs fewer than five employees.

(2) Nothing in this Ordinance deprives any school or board of trustees thereof of the right to employ persons of any particular religion or religious creed where religious instruction forms or can form the whole or part of the instruction or training provided by such school or board of trustees pursuant to the provisions of the *School Ordinance*. Idem.

(3) Nothing in this Ordinance deprives any employer of the right to employ persons of any particular race, religion, religious creed, colour, ancestry, or ethnic or national origin in preference to other persons where such preference is based upon a *bona fide* occupational qualification. 1963 (2nd) c. 3, s. 13. Idem.

CHAPTER F-3

FATAL ACCIDENTS ORDINANCE

1. This Ordinance may be cited as the *Fatal Accidents Ordinance*. R.O. 1958, c. 40, s. 1. Short title

2. (1) In this Ordinance Definitions

“administrator” means an administrator appointed by a judge; “administrator”

“child” includes son, daughter, grandson, granddaughter, stepson, stepdaughter, adopted child and a person to whom the deceased stood *in loco parentis*; “child”

“parent” includes father, mother, grandfather, grandmother, stepfather, stepmother, a person who adopted a child and a person who stood *in loco parentis* to the deceased. R.O. 1958, c. 40, s. 2. “parent”

3. (1) Where the death of a person has been caused by such wrongful act, neglect or default as, if death had not ensued, would have entitled the person injured to maintain an action and recover damages in respect thereof, the person who would have been liable if death had not ensued is liable to an action for damages notwithstanding the death of the person injured and although the death was caused under circumstances amounting in law to culpable homicide. R.O. 1958, c. 40, s. 3. Liability for damages

4. (1) An action brought under this Ordinance shall be for the benefit of the wife, husband, parent or child of the person whose death was so caused, and subject to section 8, shall be brought by and in the name of the executor or administrator of the deceased, and in every such action damages may be awarded in proportion to the injury resulting from the death to the persons respectively for whom and for whose benefit the action is brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided among the before mentioned persons in such shares as may be determined at the trial. Who benefits by action

(2) In an action brought under this Ordinance damages may also be awarded in respect of Additional damages

- (a) any medical or hospital expenses of the person injured, which would have been recoverable as damages by the person injured if death had not ensued, and
- (b) the funeral expenses of the deceased person where such expenses have been incurred by any of the parties for whom and for whose benefit the action is brought.

(3) In assessing damages in the action there shall not be taken into account any sum paid or payable on the death of the deceased or any future premiums payable under any contract of assurance or insurance. R.O. 1958, c. 40, s. 4.

Payment into court

5. (1) The defendant may pay into court one sum of money as compensation for his wrongful act, neglect or default, to all persons entitled to such compensation without specifying the shares into which it is to be divided. R.O. 1958, c. 40, s. 5.

One action only for same cause

6. (1) Not more than one action lies for and in respect of the same subject matter of complaint, and every such action shall be commenced within twelve months after the death of the deceased person. R.O. 1958, c. 40, s. 6.

Particulars of beneficiaries

7. (1) The plaintiff shall, in his statement of claim, set forth or deliver therewith full particulars of the persons for whom and on whose behalf the action is brought.

Affidavit

(2) There shall be filed with the statement of claim an affidavit by the plaintiff in which he shall state that to the best of his knowledge, information and belief the persons on whose behalf the action is brought, as set forth in the statement of claim or the particulars delivered, are the only persons entitled or who claim to be entitled to the benefit thereof.

Exception

(3) The judge before whom the action is brought may, if he is of opinion that there is sufficient reason for doing so, dispense with the filing of the affidavit. R.O. 1958, c. 40, s. 7.

Action by persons beneficially interested

8. (1) Where there is no executor or administrator of the deceased, or, there being an executor or administrator, no action is, within six months after the death of the deceased, brought by the executor or administrator, the action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by such executor or administrator.

(2) Every action brought pursuant to this section shall be for the benefit of the same persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it

were brought by such executor or administrator. R.O. 1958, c. 40, s. 8.

9. (1) Where the compensation has not been otherwise apportioned, a judge may apportion it among the persons entitled, and may provide for the costs of the application. R.O. 1958, c. 40, s. 9. Apportionment

10. (1) Where actions are brought by or for the benefit of two or more persons claiming to be entitled, as wife, husband, parent or child of the deceased, the judge before whom the actions or either of them are pending may make such order as he may deem just for the determination not only of the question of the liability of the defendant but of all questions as to the persons entitled under the provisions of this Ordinance to the damages, if any, that may be recovered. R.O. 1958, c. 40, s. 10. Actions by rival claimants

11. (1) Where an action is maintainable under this Ordinance, and some or all of the persons for whose benefit the action is maintainable are infants, and where the executor or administrator of the person deceased has agreed, either before or after the commencement of an action, on a settlement of such claim or action, either the said executor or administrator or the person against whom the claim or action is made or brought, may, on ten days' notice to the opposite party, apply to a judge for an order confirming the said settlement. Application to judge respecting settlement

(2) The judge may on the application confirm or disallow the settlement, but, if the settlement is confirmed by him, the party against whom the claim is made or action brought shall be discharged from all further claims.

(3) The judge may also on the application order the money or a portion thereof to be paid into court or otherwise apportioned and distributed as he may deem best in the interests of those entitled thereto. R.O. 1958, c. 40, s. 11.

CHAPTER F-4

FINANCIAL ADMINISTRATION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Financial Administration Ordinance*. R.O. 1958, c. 42, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“appropriation” means any Ordinance of the Commissioner in Council authorizing the payment of money out of the Yukon Consolidated Revenue Fund; “appropriation”

“department” means any department of the Government of the Territory; “department”

“fiscal year” means the period from the 1st day of April in one year to the 31st day of March in the next following year; “fiscal year”

“money” includes negotiable instruments; “money”

“negotiable instrument” includes any cheque, draft, travellers cheque, bill of exchange, postal note, money order, postal remittance and any other similar instrument; “negotiable instrument”

“public money” means all money belonging to the Territory received or collected by a public officer in his official capacity or any person authorized to receive or collect such money, and includes “public money”

(a) revenues of the Territory including interest on investments;

(b) money borrowed by the Territory;

(c) money received or collected by or on behalf of the Territory; and

(d) money paid to the Territory for a special purpose;

“public officer” includes the Commissioner and any person employed in the Public Service of the Territory; “public officer”

“Yukon Consolidated Revenue Fund” means the Yukon Consolidated Revenue Fund established by the *Yukon Act*. R.O. 1958, c. 42, s. 2. “Y.C.R.F.”

PART I

ORGANISATION

Department of
the Territorial
Treasurer

3. (1) There shall be a department of the Public Service of the Territory called the Department of the Territorial Treasurer over which the Territorial Treasurer appointed by the Commissioner shall preside. R.O. 1958, c. 42, s. 3.

Duties of
Territorial
Treasurer

4. (1) Subject to any Ordinance and any directions of the Commissioner, the Territorial Treasurer has the management and direction of the Department of the Territorial Treasurer, the management of the Yukon Consolidated Revenue Fund, and the supervision, control and direction of all matters relating to the financial affairs of the Territory not by law assigned to any other public officer. R.O. 1958, c. 42, s. 4.

Access to records

5. (1) Notwithstanding any Ordinance, the Territorial Treasurer is entitled to free access at all convenient times to all files, documents and other records relating to the Territorial Accounts, and he is also entitled to require and receive from members of the Public Service such information, reports and explanations as he may deem necessary for the proper performance of his duties. R.O. 1958, c. 42, s. 5.

PART II

PUBLIC MONEY

Payment to
Treasurer

6. (1) Subject to this Part, all public money shall be paid to the Territorial Treasurer and deposited to the credit of the Yukon Consolidated Revenue Fund.

Commissioner to
establish
accounts

(2) The Commissioner shall establish in the name of Yukon Territory accounts with such chartered banks as he designates for the deposit of public money.

Regulation of
receipt and
collection of
money

(3) Every person who collects or receives public money shall keep a record of receipts and deposits thereof in such form and manner as the Commissioner may prescribe by regulation.

Public money
shall be paid to
Treasurer

(4) Every person employed in the collection or management or charged with the receipt of public money and every other person who collects or receives public money shall pay all public moneys coming into his hands to the Territorial Treasurer. R.O. 1958, c. 42, s. 6.

7. (1) The Commissioner may purchase, acquire and hold securities and pay therefor out of the Yukon Consolidated Revenue Fund. Commissioner may acquire securities

(2) The Commissioner may sell any securities purchased, acquired or held pursuant to subsection (1) and the proceeds of the sales shall be deposited to the credit of the Yukon Consolidated Revenue Fund. Commissioner may sell securities

(3) Any net profit resulting in any fiscal year from the purchase, holding or sale of securities pursuant to this section shall be credited to revenues of that fiscal year and any net loss resulting in any fiscal year from such purchase, holding or sale shall be charged to an appropriation for the purpose. Disposal of profit or loss from securities

(4) For the purposes of subsection (3), the net profit or loss in any fiscal year shall be determined by taking into account realized profits and losses on securities sold, the amortization applicable to the fiscal year of premiums and discounts on securities, and interest applicable to the fiscal year. R.O. 1958, c. 42, s. 7. Calculation of profit or loss

8. (1) Where a service is provided by the Territory and the Commissioner is of the opinion that the whole or part of the cost of the service should be borne by the person to whom it is provided, the Commissioner may, subject to the provisions of any Ordinances relating to that service, by regulation prescribe the fee that may be charged for the service. R.O. 1958, c. 42, s. 8. Fee for services by Territory set by Commissioner

9. (1) Where the money has been paid to a public officer for any purpose in excess of the amount required for that purpose the excess amount so paid may be repaid to the person who paid it or his legal representative. Disposal of money paid to public officer

(2) Where money has been paid to a public officer for any purpose and the Commissioner is of the opinion that Idem.

(a) the purpose for which the money has been paid has not been fulfilled, and

(b) no service has been rendered by or on behalf of the Territory,

the amount so paid may be repaid to the person who paid it or his legal representative.

(3) Where money has been paid to a public officer for any purpose and the Commissioner is of the opinion that the purpose for which the money has been paid has not been fulfilled but that a service has been rendered, the Commissioner shall determine the amount, if any, that is to be Idem.

retained in respect of any service rendered and the balance, if any, shall be repaid to the person who paid it or his legal representative.

Where money is not public money

(4) Where money paid into the Yukon Consolidated Revenue Fund is not public money the Commissioner may order that the amount so paid be repaid to the person who paid it or his legal representative. R.O. 1958, c. 42, s. 9.

Money for special purpose

10. (1) Money received for a special purpose and paid into the Yukon Consolidated Revenue Fund may be paid out of the Yukon Consolidated Revenue Fund for that purpose. R.O. 1958, c. 42, s. 10.

Remission of tax, fee or penalty

11. (1) The Commissioner whenever he considers it in the public interest may remit any tax, fee or penalty.

Idem.

(2) A remission pursuant to this section may be total, partial, conditional or unconditional and may be granted

- (a) before, after or pending any suit or proceeding for the recovery of the tax, fee or penalty in respect of which it is granted;
- (b) before or after any payment thereof has been made or enforced by process or execution; and
- (c) in the case of a tax or fee, in any particular case or class of case and before the liability therefor arises.

How remission granted

- (3) A remission pursuant to this section may be granted by
- (a) forbearing to institute a suit or proceeding for the recovery of the tax, fee or penalty in respect of which the remission is granted;
 - (b) delaying, staying or discontinuing any suit or proceeding already instituted;
 - (c) forbearing to enforce, staying or abandoning any execution or process upon any judgment;
 - (d) the entry of satisfaction upon any judgment; or
 - (e) repaying any sum of money paid to or recovered by the Territory for the tax, fee or penalty.

Where remission subject to condition

(4) Where a remission is granted under this section subject to a condition, and the condition is not performed, it may be enforced, or all proceedings may be had as if there had been no remission.

Effect of remission

(5) A conditional remission, upon performance of the condition, and an unconditional remission, have effect as if the remission was made after the tax, fee or penalty in respect of which it was granted had been sued for and recovered.

(6) No tax paid on any goods shall be remitted by reason only that after the payment of the tax the goods were lost or destroyed. Where no remission permitted

(7) Remissions granted under this Ordinance may be paid out of the Yukon Consolidated Revenue Fund. Remission payable out of Y.C.R.F.

(8) Where a penalty imposed by any law relating to the revenue has been wholly and unconditionally remitted pursuant to this section, the remission has the effect of a pardon for the offence for which the penalty was incurred, and thereafter the offence has no legal effect prejudicial to the person to whom the remission was granted. Effect of remission of penalty

(9) In this section, "tax" includes any tax, impost or toll payable under an Ordinance imposed or authorized to be imposed, and "penalty" includes any forfeiture or pecuniary penalty imposed or authorized to be imposed by any Ordinance for any contravention of the laws relating to the collection of the revenue, or to the management of any public work producing toll or revenue, notwithstanding that part of such forfeiture or penalty is payable to the informer or prosecutor or to any other person. R.O. 1958, c. 42, s. 11. Tax defined

12. (1) The Commissioner may delete from the accounts, in whole or in part, any obligation or debt due to the Territory or any claim by the Territory Deletion from accounts

(a) that does not exceed two hundred dollars and has been outstanding for five years or more; or

(b) that does not exceed five hundred dollars and has been outstanding ten years or more.

(2) The obligations, debts and claims deleted from the Territorial Accounts under this section during any year shall be reported in the Public Accounts for that year. R.O. 1958, c. 42, s. 12. Report in Public Accounts

PART III

PUBLIC DISBURSEMENTS

13. (1) No payments shall be made out of the Yukon Consolidated Revenue Fund without the authority of the Commissioner in Council. R.O. 1958, c. 42, s. 13. No disbursement without authority

14. (1) All estimates of expenditures submitted to the Council shall be for the services coming in course of payment during the fiscal year. R.O. 1958, c. 42, s. 14. Estimates shall be for services for fiscal year

Authorized expenditures payable by authority of Commissioner directed to Territorial Treasurer

15. (1) Where public money is by any Ordinance appropriated for any purpose or contracted to be paid by the Commissioner, such public money shall be payable, by authority of the Commissioner directed to the Territorial Treasurer, out of the Yukon Consolidated Revenue Fund, but no payments in excess of the amount of expenditures so authorized shall be made.

Duty to account

(2) All persons entrusted with the expenditure of public money shall account for it in the manner and form and time as the Commissioner directs. R.O. 1958, c. 42, s. 15.

Accidents

16. (1) Where an accident happens to any public work or building when the Council is not in session and an expenditure for the repair or renewal thereof is urgently required or where any other matter arises when the Council is not in session in respect of which an expenditure not foreseen or duly provided for by an appropriation ordinance is urgently required for the public good, the Commissioner may authorize payment of the amount required for such expenditure out of the Yukon Consolidated Revenue Fund.

Interim appropriation only

(2) The authorization of the Commissioner, pursuant to this section, shall be deemed to be an interim appropriation and shall be submitted as a supplementary appropriation bill to the next session of Council. R.O. 1958, c. 42, s. 16.

Allotments

17. (1) At the commencement of each fiscal year and at such other times as the Commissioner may direct, the Territorial Treasurer shall prepare and submit to the Commissioner, for approval, a division of each appropriation or item into allotments and when approved, the allotments shall not be varied or amended and the expenditures charged to the appropriation shall be limited to the amounts of such allotments, but in essential instances the Commissioner may effect such transfers between allotments as will enable expenditures to be reasonably and expeditiously made in accordance with commitments not exceeding the appropriation as a whole. R.O. 1958, c. 42, s. 17.

Record of commitments

18. (1) The Territorial Treasurer shall establish and maintain a record of all commitments chargeable to each appropriation. R.O. 1958, c. 42, s. 18.

No charge except upon requisition

19. (1) No charge shall be made against an appropriation except upon the requisition of the appropriate public officer or head of the department for which the appropriation was

made, or by a person authorized by the Commissioner in writing.

(2) Every requisition for a payment out of the Yukon Consolidated Revenue Fund shall be in such form, accompanied by such documents and certified in such manner as the Commissioner may require. Form of requisition

(3) The Territorial Treasurer shall reject a requisition if he is of the opinion that the payment Rejection of requisition

- (a) would not be a lawful charge against the appropriation;
- (b) would result in an expenditure in excess of the appropriation; or
- (c) would reduce the balance available in the appropriation so that it would not be sufficient to meet the commitments charged against it.

(4) The Territorial Treasurer shall transmit to the Commissioner any requisition with respect to which he desires the direction of the Commissioner, and the Commissioner may order that payment be made or refused. Transmission of requisition for directions

(5) Where the Territorial Treasurer Appeal to Commissioner

- (a) declines to make payment;
 - (b) disallows an item in an account; or
 - (c) refuses to give a certificate required by this Ordinance;
- the appropriate public officer or head of the department concerned may report the circumstances to the Commissioner for his decision, and the Commissioner may confirm or overrule the action of the Territorial Treasurer and give such directions as are necessary to carry out his decision.

(6) Where, in respect of any contract under which a cost audit is required to be made, the Territorial Treasurer reports that any costs or charges claimed by the contractor should not in his opinion be allowed, such costs or charges shall not be allowed to the contractor unless the Commissioner so directs. R.O. 1958, c. 42, s. 19. Disallowance of costs or charges claimed

20. (1) No payment shall be made for the performance of work or the supply of goods, whether under contract or not, in connection with any part of the Public Service, unless, in addition to any other voucher or certificate that is required, the appropriate public officer, head of a department or other person authorized by the Commissioner certifies that the work has been performed or the materials supplied, or both, as the case may be, and that the price charged is according to Certificate required before payment made

the contract, or if not specified by contract, is reasonable. R.O. 1958, c. 42, s. 20.

Payment by
cheque

21. (1) Every expenditure of public money shall be made by means of cheque drawn on a chartered bank and prepared and signed in such manner as the Commissioner directs. R.O. 1958, c. 42, s. 21; 1963 (1st) c. 10, s. 1.

Examination of
cancelled
cheques

22. (1) Every cheque drawn against the Yukon Consolidated Revenue Fund, when paid, shall be delivered into the custody of the Commissioner for examination and adjustment with a statement of the cheques issued. R.O. 1958, c. 42, s. 22.

Lapse of appro-
priation

23. (1) The balance of an appropriation granted for a fiscal year that remains unexpended at the end of the fiscal year shall lapse, except that during the thirty days immediately following the end of the fiscal year charges may be made to the appropriation for the purpose of discharging a debt payable

(a) during or prior to the fiscal year; or

(b) during the said thirty days for goods received or services rendered prior to the end of the fiscal year and such amounts may be charged in the accounts for the fiscal year. R.O. 1958, c. 42, s. 23.

Accounting for
advances

24. (1) An advance for which an accounting has not been made at the termination for the fiscal year in which it was made shall be repaid or accounted for within thirty days thereafter or within such additional number of days after the termination of the fiscal year, not exceeding thirty, as the Commissioner may fix in any particular case or class of case.

Recovery of
accountable
advance

(2) The Commissioner may recover any accountable advance or any portion thereof that is not repaid or accounted for as required in subsection (1) out of moneys payable by the Territory to the person to whom the advance was made.

Report of
advances not
repaid or
accounted for

(3) Every accountable advance that is not repaid or accounted for as required by this section shall be reported in the Public Accounts. R.O. 1958, c. 42, s. 24.

Disposal of
refunds or
repayments

25. (1) An amount received as a refund or repayment of an expenditure or advance and deposited in the Yukon Consolidated Revenue Fund shall be included in the unexpended balance of the appropriation against which it was charged. R.O. 1958, c. 42, s. 25.

26. (1) It is a term of every contract providing for the payment of any money by the Territory that payment thereunder is subject to there being an appropriation for the particular service for the fiscal year in which any commitment thereunder would come in course of payment. R.O. 1958, c. 42, s. 26. Implied term in contracts with Territory

27. (1) The Commissioner may make regulations Regulations

(a) with respect to conditions under which contracts may be entered into; and

(b) with respect to the security to be given and in the name of the Commissioner to secure the due performance of contracts. R.O. 1958, c. 42, s. 27.

PART IV

PUBLIC STORES

28. (1) Every department of the Territory shall maintain adequate records of stores and the Commissioner may make rules and give directions governing the acquisition, receipt, custody, issue and control of stores. R.O. 1958, c. 42, s. 28. Stores records

29. (1) Where the Commissioner in Council has authorized the operation of a revolving fund for the purpose of acquiring and managing stores or for manufacturing, producing, processing or dealing in stores or materials, and has fixed the amount that may be charged to that revolving fund at any time. Revolving fund

(a) payments may be made out of the Yukon Consolidated Revenue Fund for these purposes subject to such terms and conditions as the Commissioner may prescribe; and

(b) the Territorial Treasurer shall keep an account to which shall be charged

(i) the cost of such of the stores and materials on hand at the time the revolving fund is established as the Commissioner may prescribe; and

(ii) the payments made under paragraph (a).

(2) There shall be shown as credits in the account referred to in subsection (1) Credits

(a) all money received by the Territorial Treasurer in respect of operations of the revolving fund; and

(b) amounts charged to appropriations as the reimbursement of costs charged to the revolving fund of stores or

materials issued or work performed in respect of services for which the appropriations were made.

Limit (3) A payment made out of the Yukon Consolidated Revenue Fund pursuant to subsection (1) together with the balance of the revolving fund shall not be greater than the amount fixed by the Commissioner in Council as the amount that may be charged to the revolving fund at any time or such lesser amount as the Commissioner may prescribe.

"Balance of the revolving fund" defined (4) For the purposes of this section "balance of the revolving fund" means the aggregate of all payments charged to the revolving fund, less all credits to the revolving fund.

Value of inventories (5) At the end of each fiscal year the value of the inventory held and accounts receivable in respect of the operations of a revolving fund shall be determined in accordance with regulations of the Commissioner, and if such value added to the receipts shown in the revolving fund exceeds the total of expenditures shown in the revolving fund and liabilities in respect of operations of the revolving fund then due and payable, the excess shall be transferred from the revolving fund as revenue, but if the value is less, no amount may be credited to the revolving fund to meet the deficiency except with the authority of the Commissioner in Council. R.O. 1958, c. 42, s. 29; 1964 (2nd) c. 7, s. 1.

Accounting transactions to be recorded at cost 30. (1) All accounting transactions with respect to a revolving fund shall be recorded at cost, but for the purpose of valuing stores or materials on hand at the time the revolving fund is established and of valuing inventories and issues of stores and materials, cost may be determined in accordance with such recognized accounting practices as the Commissioner may direct. R.O. 1958, c. 42, s. 30; 1964 (2nd) c. 7, s. 1.

Board of survey 31. (1) The Commissioner may from time to time, but not less frequently than once in every five years, constitute a board of survey to enquire into the state of the stores under his management.

Deletion of stores (2) Where a board of survey constituted under subsection (1) recommends the deletion from inventory of any obsolete or unserviceable stores or materials or any stores or materials lost or destroyed, the Commissioner may direct the deletion of all or any part of such stores or materials from the inventory, but the value of stores or materials so deleted shall not be credited to a revolving fund except with the authority of the Commissioner in Council.

(3) A statement in such form as the Commissioner prescribes of all stores and materials deleted from inventories pursuant to subsection (2) shall be included annually in the Public Accounts. 1964 (2nd) c. 7, s. 1. Report

32. (1) For the purposes of this Ordinance, the Commissioner may by regulation define the expressions "stores", "materials" and "issues." 1964 (2nd) c. 7, s. 1. "Stores",
"materials" and
"issues" defined

PART V

PUBLIC ACCOUNTS

33. (1) The Territorial Treasurer shall cause accounts to be kept in such a manner as to show How accounts to
be kept

- (a) the expenditures made under and commitments chargeable against each appropriation;
- (b) the revenues of the Territory; and
- (c) the other payments into and out of the Yukon Consolidated Revenue Fund.

(2) The Territorial Treasurer

- (a) shall cause accounts to be kept to show such of the assets and direct and contingent liabilities of the Territory; and
- (b) by authority of the Commissioner, may establish such reserves with respect to the assets and liabilities;

as are required to give a true and fair view of the financial position of the Territory. R.O. 1958, c. 42, s. 31.

34. (1) Only public moneys applicable to the current fiscal year or prior fiscal years shall be included in the annual revenues of the current fiscal year. R.O. 1958, c. 42, s. 32. Annual revenues

35. (1) An annual report called the Public Accounts shall be laid before the Council by the Commissioner on or before the 31st day of December, or if Council is not then in session, at the next ensuing session thereof. Annual report

(2) The Public Accounts shall be in such form as the Commissioner may direct. R.O. 1958, c. 42, s. 33. Form of Public
Accounts

PART VI

CIVIL LIABILITY AND OFFENCES

Accountability
for money

36. (1) Whenever the Commissioner has reason to believe that any person

- (a) has received money for the Territory and has not duly paid it over;
- (b) has received money for which he is accountable to the Territory and has not duly accounted for it; or
- (c) has in his hands any public money applicable to any purpose and has not duly applied it,

Notice

the Commissioner may cause a notice to be served on such person, or his representative in case of his death requiring him within such time from the service of the notice as may be named therein, duly to pay over, account for or apply such money, as the case may be, and to transmit to the Commissioner proper vouchers that he has done so.

Where person
fails to comply
with notice

(2) Where a person has failed to comply with a notice served on him under subsection (1) within the time stated therein, the Commissioner shall state an account between such person and the Territory showing the amount of the money not duly paid over, accounted for or applied, as the case may be, and, in the discretion of the Commissioner, charge interest on the whole or any part thereof at the rate of five percent per annum from such date as the Commissioner may determine, and in any proceedings for the recovery of such money a copy of the account stated by the Commissioner, certified by him, shall be *prima facie* proof that the amount stated therein, together with interest, is due and payable to the Territory without proof of the signature of the Commissioner or his official character, and without further proof thereof, and such amount and interest may be recovered as a debt due to the Territory. R.O. 1958, c. 42, s. 34; 1967 (1st) c. 9, s. 1.

Affidavit

37. (1) Where it appears

- (a) by the books or accounts kept by or in the office of any person employed in the collection or management of the revenue,
- (b) in any accounting by such person, or
- (c) by his written acknowledgement or confession,

that such person has, by virtue of his office or employment, received money belonging to the Territory and has refused or neglected to pay over such money to the proper persons at the proper times, an affidavit deposing to such facts taken by any other person having knowledge thereof, shall in any

proceedings for the recovery of such money be received in evidence and shall be *prima facie* proof of the facts stated therein. R.O. 1958, c. 42, s. 35.

38. (1) Where by reason of any malfeasance, wilful neglect of duty or gross negligence by any person employed in the collecting or receiving any public money, any sum of money is lost to the Territory, such person is accountable for such sum as if he had collected and received it and it may be recovered from him as if he had collected and received it. R.O. 1958, c. 42, s. 36.

Accountability
for money

39. (1) Every officer or person acting in any office or employment connected with the collection, management or disbursement of public money who

Offences and
penalty

- (a) receives any compensation or award for the performance of any official duty, except as prescribed by law ;
- (b) conspires or colludes with any other person to defraud the Territory ;
- (c) designedly permits any violation of the law by any other person ;
- (d) wilfully makes or signs any false entry in any book or wilfully makes or signs any false certificate or return in any case in which it is his duty to make an entry, certificate or return ;
- (e) having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the Territory, under any revenue ordinance of the Territory, fails to report, in writing, such knowledge or information to his superior officer ; or
- (f) demands or accepts or attempts to collect, directly or indirectly, as payment or gift or otherwise, any sum of money, or other thing of value, for the compromise, adjustment or settlement of any charge or complaint for any violation or alleged violation of law ;

commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars and to imprisonment for a term not exceeding five years. R.O. 1958, c. 42, s. 37.

Penalty

40. (1) Every person who

Idem.

- (a) promises, offers or gives any bribe to any officer or any person acting in any office or employment connected with the collection, management or disbursement of public money, with intent

- (i) to influence his decision or action on any question or matter that is then pending, or may, by law, be brought before him in his official capacity; or
- (ii) to influence such officer or person to commit, or aid or abet in committing any fraud on the revenue, or to connive at, collude in, or allow to permit any opportunity for the commission of any such fraud; or

(b) accepts or receives any such bribe ;

commits an offence and is liable on summary conviction to a fine not exceeding three times the amount so offered or accepted and to imprisonment for a term not exceeding five years. R.O. 1958, c. 42, s. 38.

Documents of account, etc., property of Territory

41. (1) All books, papers, accounts and documents kept or used by, or received or taken into the possession of any person who is or has been employed in the collection or management of the revenue or in accounting for the revenue by virtue of that employment, shall be deemed to be chattels belonging to the Territory; and all money or valuable securities received or taken into the possession of any such officer or person by virtue of his employment shall be deemed to be money and valuable securities belonging to the Territory. R.O. 1958, c. 42, s. 39.

PART VII

MISCELLANEOUS

Retention of money by deduction or set-off

42. (1) Where, in the opinion of the Commissioner, any person is indebted to the Territory in any specific sum of money, the Commissioner may authorize the Territorial Treasurer to retain by way of deduction or set-off out of any sum of money that may be due and payable by the Territory to such person. R.O. 1958, c. 42, s. 40.

Regulations

43. (1) The Commissioner may make regulations for carrying the purposes and provisions of this Ordinance into effect. R.O. 1958, c. 42, s. 41.

CHAPTER F-5

FIRE PREVENTION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Fire Prevention Ordinance*. 1962 (5th) c. 3, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“Deputy Fire Marshal” means a person appointed Deputy Fire Marshal pursuant to section 3; “Deputy Fire Marshal”

“Fire Marshal” means the person appointed Fire Marshal pursuant to section 3; “Fire Marshal”

“fire extinguisher” means any first aid fire appliance, container or apparatus holding any fire extinguishing liquid, material or agent and designed for the specific purpose of extinguishing fire in its incipient stage; “fire extinguisher”

“inspector” means a person appointed to be an inspector pursuant to section 3; “inspector”

“local assistant” means a person described in section 7; “local assistant”

“structure” means any structure of any kind erected or placed on, in, over or under any area of land or water. 1962 (5th) c. 3, s. 2. “structure”

ADMINISTRATION

3. (1) The Commissioner may appoint a Fire Marshal, deputy Fire Marshals, and inspectors, for the purpose of this Ordinance. 1962 (5th) c. 3, s. 3. Appointment of Fire Marshal

4. (1) The Fire Marshal shall Duties of Fire Marshal

- (a) keep a record of fires reported to him ;
- (b) review plans and specifications for the construction, alteration or repair of structures with a view to determining that proper precautions are taken against fire and the spread of fire ;
- (c) submit to the Commissioner within three months following the end of each year a report for the year, setting forth particulars of fires, fatalities or injuries

by fire, investigations and inquiries into fires, prosecutions for arson or attempted arson and a summary of the administration and the fire prevention and fire protection activity of the office of the Fire Marshal, together with such other information as the Commissioner prescribes;

- (d) advise and make recommendations to the Commissioner with respect to
 - (i) the establishment of fire brigades and the necessary organization and equipment of such brigades,
 - (ii) the provision of adequate water supply for fire fighting purposes,
 - (iii) the installation and maintenance of fire alarm systems and fire extinguishing equipment,
 - (iv) the storage, use, sale or disposal of combustibles, explosives or other inflammable material,
 - (v) the construction and maintenance of fire escapes and other exit facilities in the event of fire or the alarm of fire,
 - (vi) the types and adequacy of fire alarms in communities and in or upon any building or property,
 - (vii) fire prevention precautions in the construction or major alteration of or addition to any structure or property,
 - (viii) the enactment and enforcement by municipalities of by-laws for the prevention and suppression of fire and the safeguarding of persons and property in the event of fire or the alarm of fire,
 - (ix) the co-ordination of the work of fire brigades in the Territory, and
 - (x) the organization of fire brigades in the Territory for the purposes of civil defence; and
- (e) disseminate to the public information concerning the prevention of fire and the protection of persons and property from fire. 1962 (5th) c.3, s.4.

Deputy Fire
Marshal to act
for Fire Marshal

5. (1) Where the Fire Marshal is absent or unable to act, or where the office of the Fire Marshal is vacant, the Deputy Fire Marshal who has held office for the longest period of time shall act in place of the Fire Marshal. 1962 (5th) c.3, s.5.

Duties of
inspector

6. (1) A Deputy Fire Marshal and an inspector shall have all the powers of a local assistant and shall perform such other duties as may be assigned to them by the Fire Marshal. 1962 (5th) c.3, s.6; 1966 (2nd) c.12, s.1.

7. (1) Subject to subsection (2), the chief or acting chief of the fire brigade of every municipality or settlement in which a fire brigade has been established, and the municipal clerk of every municipality in which no fire brigade has been established is, by virtue of his office, a local assistant to the Fire Marshal and is subject to the directions of the Fire Marshal in carrying out the provisions of this Ordinance within the boundaries of the municipality or settlement.

Local assistant

(2) The council of a municipality in which no fire brigade has been established may appoint a person to act as local assistant in place of the municipal clerk and upon such appointment being made the municipal clerk shall no longer be a local assistant.

Council may appoint person in place of municipal clerk

(3) The council making an appointment pursuant to subsection (2) shall notify the Fire Marshal of the name, address and occupation of the appointee.

Notification of Fire Marshal

(4) The Commissioner may appoint local assistants in areas not included in subsection (1).

Commissioner may appoint local assistants

(5) A member of the Royal Canadian Mounted Police while on duty in the Territory shall have all the powers of a local assistant. 1962 (5th) c. 3, s. 7.

R.C.M.P. officers to have powers of local assistant

INVESTIGATIONS OF FIRES

8. (1) A local assistant shall investigate the cause, origin and circumstances of every fire occurring within his jurisdiction that has destroyed or damaged property.

Investigation by local assistants

(2) Any investigation carried out pursuant to subsection (1) shall commence within seventy-two hours of the time the condition of the structure first permits an investigation.

Commencement of investigation

(3) A local assistant may make an order prohibiting the entering of premises in which a fire has occurred until he has completed his investigation.

Order prohibiting entrance of premises where fire has occurred

(4) The local assistant shall immediately upon completion of the investigation furnish to the Fire Marshal a report of all the facts that can be ascertained relating to the cause and origin of the fire and such further information as may be required by the Fire Marshal. 1962 (5th) c. 3, s. 8.

Report by local assistant

9. (1) In addition to any investigation made by a local assistant under section 8, the Fire Marshal or any other person authorized by the Commissioner may make an inquiry by Fire Marshal

Inquiry by Fire Marshal

ry into the cause, origin and circumstances of any fire that has destroyed or damaged property.

Witnesses

(2) The person conducting an inquiry pursuant to subsection (1) may

- (a) summon witnesses to appear before him and require them to give evidence upon oath and to produce such documents and things as he deems necessary to the full investigation of the matter under inquiry;
- (b) for the purpose of obtaining further evidence adjourn the inquiry from time to time but no such adjournment shall be for more than thirty days; and
- (c) impose a fine not exceeding one hundred dollars upon any witness who refuses to answer any question put to him in the course of the inquiry. 1962 (5th) c. 3, s. 9.

Suspicion of arson

10. (1) If

- (a) the Fire Marshal, upon receiving the report made by a local assistant under section 8 or
- (b) the person making the inquiry under section 9 has reason to believe that arson or attempted arson may have been committed, the Fire Marshal or the person making the inquiry, as the case may be, shall immediately give all the information in his possession to the nearest detachment of the Royal Canadian Mounted Police. 1962 (5th) c. 3, s. 10.

REPORTS BY INSURERS, ADJUSTERS AND OWNERS OF PROPERTY

Report by insurers

11. (1) Every fire insurance company carrying on business in the Territory shall forward to the Fire Marshal within fifteen days of the end of each month a statement showing the claims, if any, that have been made during the preceding month in respect of policies of fire insurance issued by it, the name and address of the insured, the location and value of the insured property, the amount of the insurance carried, the amount of loss sustained and the name and address of the person adjusting the claim.

Report by adjusters

(2) Every person adjusting a claim against an insurer in respect of a loss of property by fire, whether that person represents the insurer or the insured, shall forward a report in writing to the Fire Marshal showing the date of the fire, the name and address of the owner and of the occupier of the property where the fire occurred, the location of the property, the name and address of the insured and each insurer, the value of the property insured, the amount of insurance placed with each insurer, the amount of loss which each

insurer is to bear and such other particulars as the Fire Marshal may require.

(3) Where an adjuster referred to in subsection (2) believes that, in respect of a claim he is adjusting, arson or attempted arson may have been committed, he shall immediately give all information in his possession to the nearest detachment of the Royal Canadian Mounted Police. 1962 (5th) c. 3, s. 11.

Suspicion of arson

12. (1) The occupant of any property upon which any fatality or injury has been caused by fire shall forthwith report such fatality or injury to the Fire Marshal giving the name, age and sex of each person sustaining such fatality or injury, the cause of the fire, if known, and such other information as the Fire Marshal requires. 1962 (5th) c. 3, s. 12.

Where fatality or injury caused

INSPECTION OF PREMISES WHERE FIRE HAS OCCURRED

13. (1) The Fire Marshal, a Deputy Fire Marshal, an inspector or a local assistant may enter and inspect any structure or premises in which a fire has occurred or is in progress or any structure or premises immediately adjoining a structure or premises in which a fire has occurred or is in progress if he believes on reasonable and probable grounds that this Ordinance or the regulations made hereunder have been contravened or that an offence under section 389, 390 or 392 of the *Criminal Code* has been committed or attempted. 1962 (5th) c. 3, s. 13.

Power to enter premises where fire has occurred

FIRE HAZARDS

14. (1) The Fire Marshal or a local assistant may from time to time inspect any structure or premises and where it is found that

Inspection of structure or premises

- (a) the structure for want of proper repair or by reason of age or dilapidated condition or for any other cause is a fire hazard and is so situated as to endanger other structures or property;
 - (b) the structure is so used or occupied that any fire occurring therein would be likely to cause such structure to become a hazard to life or property;
 - (c) an inflammable or potentially explosive substance or hazardous condition;
 - (d) the structure is lacking adequate provision for the safe evacuation of persons in case of fire or an alarm of fire,
- the Fire Marshal or the local assistant may in writing order the owner, lessee or occupant of the building or premises,

- (e) in any case mentioned in paragraph (a), to repair, remove or destroy the structure ;
- (f) in any case mentioned in paragraph (b), to alter the use or occupancy of the structure ;
- (g) in any case mentioned in paragraph (c), to remove the inflammable or potentially explosive substance or to remedy the hazardous conditions ; and
- (h) in any case mentioned in paragraph (d), to install safeguards by way of fire extinguishers, fire alarms, exit signs and other equipment and devices, and such fire escapes and exit doors as may be deemed necessary for safe evacuation in the event of fire or an alarm of fire.

Service of order

(2) Every order made pursuant to subsection (1) shall specify the date within which the order shall be complied with and shall be served upon the person to whom it is directed either personally or by registered mail.

Owner of inflammable or potentially explosive substance or material to remove

(3) The Fire Marshal or local assistant when making an order pursuant to paragraph (1)(g) may also order the owner of the inflammable or potentially explosive substance to remove that substance from the structure or premises.

Danger to safety of public

(4) Where any of the conditions described in paragraphs (1)(a) to (1)(d) or in section 15, in the opinion of the Fire Marshal or a local assistant, constitute a danger to the safety of the public, the Fire Marshal or the local assistant may order the structure or premises closed to the public until the condition has been remedied and the premises inspected and approved by the Fire Marshal or the local assistant. 1962 (5th) c.3, s.14.

Heating appliances

15. (1) Where an appliance or apparatus is used or intended to be used for supplying fire or heat and in the opinion of the Fire Marshal or a local assistant the use of the appliance or apparatus for that purpose is likely to be dangerous to persons or property, the Fire Marshal or the local assistant may order in writing that a fire not be lighted or maintained in the appliance or apparatus until the dangerous condition has been remedied and the appliance or apparatus has been inspected and approved by the Fire Marshal or the local assistant. 1962 (5th) c.3, s.15.

Appeal to Fire Marshal

16. (1) The owner, lessee or occupant of a structure or premises or the owner of an inflammable or potentially explosive substance or material against whom an order is made pursuant to section 14 or 15 by a local assistant may

within seven days from the date on which a copy of the order is served on him appeal the order in writing to the Fire Marshal.

(2) The Fire Marshal shall forthwith consider the order and either affirm, modify or revoke the same and cause a copy of his decision to be served on the person appealing either personally or by registered mail.

(3) Unless the Fire Marshal otherwise orders, the operation of an order referred to in subsection (1) is suspended until a copy of the Fire Marshal's decision has been served on the person appealing. 1962 (5th) c. 3, s. 16.

17. (1) The person appealing an order of a local assistant under section 16 may within seven days from the date a copy of the Fire Marshal's order is served on him appeal to a judge by serving a notice of appeal on the Fire Marshal and filing a copy with the Clerk of the Court. Appeal to a judge

(2) The owner, lessee or occupant of a structure or premises or the owner of an inflammable or potentially explosive substance against whom an order is made pursuant to section 14 or 15 by the Fire Marshal may appeal to a judge in the manner set out in subsection (1).

(3) Unless a judge otherwise orders, the operation of an order referred to in subsection (2) is suspended until a copy of the judge's decision has been served on the person appealing either personally or by registered mail. 1962 (5th) c. 3, 17.

18. (1) Where an owner, lessee or occupant of a structure or premises fails to comply with an order made pursuant to section 14 and Failure to comply with Order

(a) has not within the prescribed time appealed from the order, or

(b) has appealed from the order and a decision has been rendered against him,

if the structure or premises is located

(c) within a municipality, the council of the municipality may take the necessary steps to perform the work required by the order;

or

(d) outside of a municipality, the Commissioner may take the necessary steps to perform the work required by the order.

(2) Subject to subsection (3), the cost of performing the work pursuant to subsection (1) may be added to and shall Cost may be recovered

form part of the taxes on the property on which the work was done.

Limitation of amount to be added in any one year

(3) No amount shall be added to such taxes in any one year in excess of five percent of the assessed value of the property or two hundred and fifty dollars, whichever is greater. 1962 (5th) c. 3, s. 18.

Location of owner, lessee or occupant unknown

19. (1) Where an order is made under subsection 14(1) and
 (a) the whereabouts of the owner are unknown to the Fire Marshal, and
 (b) there is no lessee or occupant of the structure, or the whereabouts of the lessee or occupant are unknown
 the Fire Marshal or any person authorized in writing by him, upon obtaining leave under subsection (2) and upon compliance with any conditions attached thereto, may enter into or upon the structure or premises and carry out the order.

Application for leave

(2) Upon *ex parte* application by the Fire Marshal for leave to proceed to carry out the order, the judge may grant such leave, upon such conditions with respect to notice of intention to do so and upon such other conditions as the judge deems fit.

Saleable material

(3) Where the carrying out of an order pursuant to subsection (1) results in any saleable material being obtained, the Fire Marshal may cause such material to be sold at such a price and in such manner as he directs.

Proceeds of sale

(4) The Fire Marshal shall apply the proceeds from any sale under subsection (3) against the expense of complying with any conditions prescribed by the judge and the expense actually and necessarily incurred in carrying out the order, and shall pay the surplus, if any, to the Commissioner.

Idem.

(5) The Commissioner shall pay the moneys so received, or any part thereof, to any person entitled thereto or to the municipality in which the structure or premises is situated, or to the Yukon Consolidated Revenue Fund. 1962 (5th) c. 3, s. 19.

PUBLIC SAFETY

Doors of public buildings

20. (1) The outside doors and the main inside doors of every structure used as a theatre, dance hall or skating rink and of every structure used as a church, school or place of public resort or amusement having seating capacity for more than fifty persons, shall be so hung as to open freely outwards and when the public is using the structure

- (a) the doors shall be kept open by proper fastening ; or
- (b) the doors may be closed but not locked otherwise than by latches which release when pressure not exceeding fifteen pounds is applied to a releasing device located on the inner side of the door which consists of bars or panels not less than two-thirds of the width of the door and placed at a height suitable for the service required but not less than thirty inches and not more than forty-four inches above the floor.

(2) Any fences connected with any structure referred to in subsection (1) shall have gates that are at least as wide as the outside doors of the structure and are so hung as to open freely outwards or are kept open by proper fastenings during the time the public is using the structure. Fences

(3) Every person who violates subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars and in default of payment to imprisonment for a period not exceeding three months. 1962 (5th) c. 3, s. 20. Liability for violation

21. (1) No person shall sell or offer for sale

- (a) a fire extinguisher ;
- (b) a fire alarm device ; or
- (c) a heating appliance that
 - (i) uses electrical energy to produce energy heat, or
 - (ii) produces heat by the burning of
 - (A) natural gas or oil,
 - (B) manufactured gas, or
 - (C) a mixture of liquified material which is composed predominantly of propane, propylene, butane or butylene, or of a combination thereof,

Sale of fire extinguishers, fire alarms and heating appliances

unless the extinguisher, device or appliance has been listed and labelled by any of the following organizations :

- (1) Canadian Standards Association,
- (2) Canadian Gas Association,
- (3) Underwriters' Laboratories of Canada,
- (4) Underwriters' Laboratories Incorporated,
- (5) Associated Factory Mutual Fire Insurance Companies,

or by a person or government department specified by the Commissioner in Council.

(2) Any person selling or offering for sale the equipment listed under subsection (1) which has not been listed and labelled or approved as provided for, may in writing, request the Commissioner to appoint an evaluator who shall examine and make such tests as he thinks fit of the equipment for which approval is sought and the evaluator shall if he approves the equipment list and label it for sale or mark it as rejected as the case may be and report the result of his examination to the Commissioner.

(3) If the equipment is approved by the evaluator the person offering it for sale shall be permitted to sell it during the ensuing twelve months and not thereafter. 1962 (5th) c. 3, s. 21.

OFFENCES AND PENALTIES

Offences and penalties

22. (1) Every person who

(a) hinders or obstructs the Fire Marshal, a Deputy Fire Marshal, a local assistant or an inspector in the performance of his powers or the execution of his duties, or

(b) violates any of the provisions of this Ordinance or the regulations, for which violation no other penalty is provided,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars. 1962 (5th) c. 3, s. 22.

Idem.

23. (1) Any owner, lessee or occupant of any structure or premises who fails to comply with an order of the Fire Marshal or a local assistant duly made under the authority of this Ordinance, commits an offence and is liable on summary conviction to a fine not exceeding twenty-five dollars for each day's neglect or failure to comply therewith. 1962 (5th) c. 3, s. 23.

Regulations

24. (1) The Commissioner may make regulations

(a) respecting the establishment and operation of any plant and equipment used in the business of dry cleaning, dry dyeing, cleaning and pressing or any similar business in which inflammable liquid or other light petroleum or coal tar product or volatile liquid is used ;

(b) respecting the sale, distribution, installation and maintenance of fire fighting and fire prevention equipment, apparatus, material and supplies, including fire alarm systems, and for the licensing and control of manufacturers, agents and jobbers, wholesale and

- retail vendors and installers of such equipment, apparatus, material or supplies;
- (c) respecting the licensing and control of manufacturers, agents and jobbers, wholesale and retail vendors and installers of oil burners and appliances using inflammable liquids as fuel;
 - (d) respecting the storage, sale and use of inflammable liquids;
 - (e) respecting the prevention and extinguishing of fires, the provision and installation of safety devices and means of exits in hotels, boarding houses, apartment blocks and other places of public accommodation;
 - (f) respecting the prevention and extinguishing of fires, the provision and installation of safety devices and means of exit in churches, schools and institutions;
 - (g) establishing minimum building standards for fire prevention purposes and designating the areas within the Territory to which such minimum standards shall apply;
 - (h) prescribing the fees and allowances to be paid to witnesses appearing to give evidence at an inquiry described in section 9;
 - (i) generally, for carrying into effect the purposes of this Ordinance. 1962 (5th) c. 3, s. 24; 1967 (2nd) c. 7, s. 1.

CHAPTER F-6

FITNESS AND AMATEUR SPORT AGREEMENT ORDINANCE

1. This Ordinance may be cited as the *Fitness and Amateur Sport Agreement Ordinance*. 1962 (5th) c. 1, s. 1. Short title

2. (1) The Commissioner may, on behalf of the Government of the Yukon Territory, enter into an agreement with the Government of Canada, under and for the purposes of the *Fitness and Amateur Sport Act*, 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 undertaking programs designed to encourage, promote and develop amateur sport. 1962 (5th) c. 1, s. 2. Commissioner
may execute
agreement

3. (1) 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. 1962 (5th) c. 1, s. 3.

4. (1) 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. 1962 (5th) c. 1, s. 4. Commissioner
may implement
agreement

CHAPTER F-7

FLAG ORDINANCE

1. This Ordinance may be cited as the *Flag Ordinance*. Short title
1967 (2nd) c. 3, s. 1.

2. (1) The flag described and illustrated in Schedule I is Flag for
hereby adopted as the flag of the Yukon Territory. 1967 (2nd) Territory
c. 3, s. 2.

SCHEDULE I

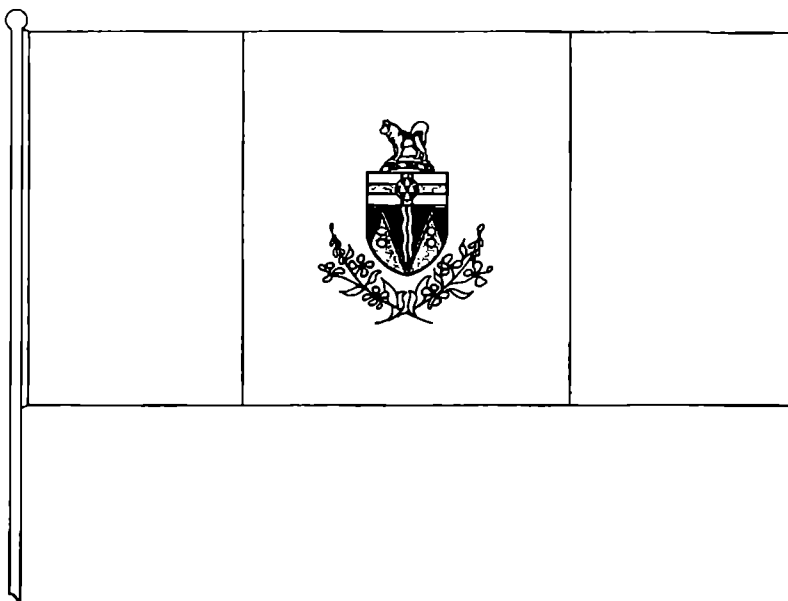
1. Description:

The flag consists of three vertical panels, the centre panel being one and one-half times the width of each of the other two panels. The panel adjacent to the mast is coloured green (503-115), the centre panel is coloured white and has the Yukon Crest disposed above a symbolic representation of the floral emblem of the Territory, *epilobium angustifolium*, and the panel on the fly is coloured blue (502-204). The stem and leaves of the floral emblem are coloured green (503-115), and the flowers thereof are coloured red (509-103). The Yukon Crest is coloured red (509-103), and blue (502-204), with the Malamute dog coloured black.

(Code numbers are references to the Canadian Government Specifications Board publication known as the Standard Paint Colours, Part I, and numbered 1-GP-12c, 1965.)

1967 (2nd) c. 3, Sched.

2. Illustration:



1967 (2nd) c. 3, Sched.

CHAPTER F-8

FLORAL EMBLEM ORDINANCE

1. The flower known botanically as *Epilobium angustifolium* and popularly known as "fireweed" is adopted and shall be deemed to be the floral emblem of the Yukon Territory. Adoption of floral emblem
R.O. 1958, c. 46, s. 1.

CHAPTER F-9

FOREST PROTECTION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Forest Protection Ordinance*. R.O. 1958, c. 47, s. 1. Short Title

INTERPRETATION

2. (1) In this Ordinance Definitions
- “closed area” means an area in respect of which an order under section 15 is in effect; “closed area”
- “fire season” means the period during which the setting out, starting or kindling of fires is restricted under this Ordinance; “fire season”
- “engine” means any railway locomotive, traction engine, logging, stationary or portable engine or other power producing plant or similar device; “engine”
- “forest area” means any uncultivated land that by reason of the existence of trees, grass or other vegetation thereon, possesses economic, recreational, wildlife or other value, and includes any ditch, flume, highway, road or trail, or right of way for a telephone, telegraph, power of pipe line running on or adjacent to the uncultivated land; “forest area”
- “forest officer” means “forest officer”
- (a) a person appointed to be a forest officer under section 4, or
- (b) a member of the Royal Canadian Mounted Police;
- “inflammable material” includes trees, timber, brush, slash, grass, vegetation, garbage, debris and things of a similar nature; “inflammable material”
- “owner” when used with respect to land includes any person having any right, title or interest in or to the land whether by use, occupation, registration or otherwise; “owner”
- “permit” means a valid and subsisting permit issued under section 16; “permit”
- “prescribed” means prescribed by the regulations. R.O. 1958, c. 47, s. 2. “prescribed”

APPLICATION

Application to municipalities

3. (1) The provisions of this Ordinance shall apply to every municipality as defined in the *Municipal Ordinance*; but the provisions of this Ordinance shall be deemed not to repeal, abrogate or derogate from any municipal by-law. R.O. 1958, c. 47, s. 3.

APPOINTMENT, POWERS AND DUTIES OF OFFICERS

Appointment of Forest Supervisor and forest officers

4. (1) The Commissioner may appoint a Forest Supervisor and forest officers to carry out the provisions of this Ordinance. R.O. 1958, c. 47, s. 4.

Oath of office

5. (1) A forest officer appointed under section 4 shall, before entering upon the performance of his duties, take and subscribe to the following oath:

"I,, a forest officer appointed under the *Forest Protection Ordinance*, do solemnly swear that to the best of my ability and judgment I will faithfully, honestly and impartially perform my duties as forest officer according to the true intent and meaning of the *Forest Protection Ordinance* and the regulations made at any time thereunder. So help me God." R.O. 1958, c. 47, s. 5.

Rights of Supervisor

6. (1) The Forest Supervisor has all the rights and powers of a forest officer. R.O. 1958, c. 47, s. 6.

Duties and powers of Forest Supervisor

7. (1) Where any person fails to comply with any direction, notice, demand or order made under this Ordinance, the Forest Supervisor may cause it to be carried out by such other person as he may direct. R.O. 1958, c. 47, s. 7.

Right of officers to enter property and arrest summarily

8. (1) A forest officer may, in carrying out his duties,
(a) enter upon or into any lands or premises other than a dwelling house at any time of the day or night, and
(b) arrest without warrant any person whom he finds in the act of violating this Ordinance and take him before a magistrate. R.O. 1958, c. 47, s. 8.

LEAVING FIRES

Leaving fires

9. (1) Except with the written permission of a forest officer, no person shall leave the vicinity of a fire that he has set out, started or kindled, other than a fire kindled in a stove, furnace or other device suitably designed and capable of confining it, until he has totally extinguished it. R.O. 1958, c. 47, s. 9.

10. (1) There shall be a fire season in each year beginning on the first day of April and ending on the thirtieth day of September, except that the fire season may be extended, shortened or designated for one or more additional periods as the Commissioner may prescribe. R.O. 1958, c. 47, s. 10; 1969 (3rd) c. 4, s. 1. Fire season

11. (1) Subject to section 13 no person shall during the fire season set out, start or kindle any fire for the purpose of clearing land, cooking or preparing food, or obtaining warmth, or burning any inflammable material, or for any industrial purpose except pursuant to a permit issued under section 16. R.O. 1958, c. 47, s. 11; 1963 (1st) c. 11, s. 1. No fires during closed season without a permit

12. (1) During the fire season a person who sets out, starts or kindles a fire pursuant to a permit shall select a site for the fire as free from inflammable material as possible and exercise every precaution to prevent the fire from spreading. R.O. 1958, c. 47, s. 12. Sites for open fires to be carefully chosen

13. (1) No person acts in contravention of sections 11 and 12 by reason only of his starting or kindling and leaving a fire in any stove, furnace or other device designed to confine the fire and suitable for that purpose. R.O. 1958, c. 47, s. 13. Fires started in stoves, etc.

14. (1) A person who, during the fire season, in or within one-half of a mile from a forest area, To extinguish fires before leaving them

(a) uses any explosives, or

(b) throws or drops a burning match, ashes of a pipe, lighted cigarette or cigar or other burning substance,

shall totally extinguish the fire of the explosive, match, ashes, cigarette, cigar or other burning substance and any fire caused thereby before leaving the vicinity of the fire.

(2) No person shall, during the fire season, in or within one-half of a mile from a forest area, Requirements for engines

(a) operate an engine unless it is equipped with a prescribed fire prevention device for arresting sparks and for preventing the escape of fire or live coals from ashpans and fire boxes,

(b) operate a steamboat on any water in the Territory unless it is equipped with a prescribed fire prevention device for arresting sparks,

(c) burn any wood-waste in any burner or destructor unless it is equipped with a prescribed fire prevention device for arresting sparks, or

- (d) use or operate any engine, steamboat, burner or destructor or conduct any logging or other industrial operations unless he has available and in good operating condition such tools, pumps, hoses and other fire-fighting equipment as the Forest Supervisor may prescribe. R.O. 1958, c. 47, s. 14.

CLOSED AREAS

15. (1) When the Forest Supervisor considers that the safety of life or property in any area of the Territory is endangered by the hazardous condition of the forest-cover or by fire, he may, by order in writing signed by him, declare the area a closed area and prohibit anything therein that he considers likely to cause or spread fire.

(2) A forest officer may take such emergency action in a closed area as he considers necessary to control and extinguish fire and safeguard life and property.

(3) Subject to subsection (4), no person shall

- (a) enter or remain in a closed area for the purpose of travelling, camping, fishing or hunting or for any similar purpose, or
- (b) do anything prohibited by an order under subsection (1) in or within one-half of a mile from a forest area in a closed area,

except pursuant to a permit therefor issued under section 16.

(4) Subsection (3) does not apply to

- (a) miners or prospectors while actively engaged in mining or prospecting,
- (b) permanent residents living within a closed district, or
- (c) land owners or persons doing anything not prohibited in an order under subsection (1),

and such persons are entitled to free access to and egress from their property or operation in a closed area without securing a permit therefor.

(5) When, with respect to a closed area established under subsection (1), the Forest Supervisor considers the danger to have abated, he shall, by order in writing signed by him, cancel the order establishing the closed area. R.O. 1958, c. 47, s. 15.

PERMITS

16. (1) The Commissioner, the Forest Supervisor or a person authorized in writing by the Forest Supervisor may issue permits authorizing, subject to orders and regulations, Issue of permits

- (a) the use of fire during the fire season for the purpose of clearing land, cooking or preparing food or obtaining warmth,
- (b) the burning of inflammable material during the fire season,
- (c) the use of fire during the fire season for any industrial purpose, and
- (d) the entry of a closed area and the doing of anything prohibited by an order under subsection 15(1),

for such periods of time and upon such terms and conditions as the Commissioner or the Forest Supervisor may specify in the permit.

(2) Notwithstanding anything contained in this Ordinance, the Commissioner, the Forest Supervisor or a forest officer may, for any cause that he deems sufficient, suspend or cancel any permit. Cancellation or suspension of permit

(3) Where a permit has been suspended or cancelled, the holder shall forthwith surrender it to the person who made the order of suspension or cancellation. R.O. 1958, c. 47, s. 16; 1963 (1st) c. 11, s. 2. Surrender of permit

OPERATIONS IN FOREST AREAS

17. (1) A person carrying on an operation for the cutting or removal of trees or timber shall, on demand of the Forest Supervisor and in a manner satisfactory to him, dispose of all inflammable material occasioned by or accumulated in the operation. Operations in forest areas

(2) A person who, in or within one-half of a mile from a forest area, carries on any lumbering or other operation that occasions or accumulates inflammable material, or the owner of the land on which the inflammable material exists, shall, on demand of the Forest Supervisor, cut down all dead trees and stubs within the area where the inflammable material exists and establish a fire guard, satisfactory to the Forest Supervisor, around the area. Care required with inflammable materials

(3) The owner of every camp, mine, sawmill or engine that is situated within one-half of a mile from a forest area shall establish a fire guard, satisfactory to the Forest Supervisor, around the camp, mine, sawmill or engine. Fire guards

Clearance of
right of way

(4) Every person clearing a right of way for any trail, telephone, telegraph, power or pipeline, road, highway, ditch or flume shall, if directed to do so by the Forest Supervisor, pile, burn or otherwise dispose of all inflammable material on the right of way to the satisfaction of the Forest Supervisor, as rapidly as the clearing progresses and the weather conditions permit, or at such other time as the Forest Supervisor orders.

Not to leave
inflammable
material on land
of others

(5) No person clearing any land or carrying on any lumbering operation shall fell or permit to be felled any trees or brush in such a manner that the trees or brush fall and remain on land of which he is not the owner.

Not to leave
inflammable
material near
railway right of
way

(6) Subject to sections 10 and 15, every person who causes an accumulation of inflammable material within three hundred feet of the right of way of any railway shall immediately pile and burn the inflammable material. R.O. 1958, c. 47, s. 17.

Public nuisance

18. (1) Where the Forest Supervisor considers any inflammable material so dangerous to life or property as to be a public nuisance, he shall so notify in writing the owner of the land on which the inflammable material exists and the owner shall immediately abate the nuisance to the satisfaction of the Forest Supervisor. R.O. 1958, c. 47, s. 18.

FIRE-FIGHTING

Duty to extin-
guish and report
fire

19. (1) A person who finds that fire exists in or within one-half of a mile from a forest area shall do his utmost to prevent the fire from spreading and to extinguish it and, if someone has not already done so, shall report the fire to the nearest forest officer by the speediest means practicable. R.O. 1958, c. 47, s. 19.

Duty to assist in
preventing fire

20. (1) Where a fire is burning on land on which a person is conducting land clearing, lumbering, industrial, engineering or construction operations, or that he is otherwise occupying, he shall do his utmost to prevent the fire from spreading and to extinguish it, and at his own expense, shall place his services and the services of his employees at the disposal of any forest officer for that purpose.

Operations to be
discontinued
while fire
burning

(2) No person shall, without the written consent of a forest officer, continue or resume any land clearing, lumbering, industrial, engineering or construction operations on land while a fire is burning thereon. R.O. 1958, c. 47, s. 20.

21. (1) Where the Forest Supervisor, forest officer or magistrate considers it necessary, he may employ or summon orally or in writing the assistance of any male person who

Assistance may be summoned

(a) is not less than eighteen and not more than sixty years of age, and

(b) is not physically unfit for the purpose, a medical practitioner or a person whose absence would disturb the operation of a railway or an essential transportation, public utility or communication service,

for the purpose of controlling or extinguishing fires.

(2) Any person who refuses or neglects to obey a summons given under subsection (1) commits a separate offence for each day that he continues to refuse or neglect to obey the summons during the continuance of the fire and is liable for each offence on summary conviction to a fine not exceeding fifty dollars or to imprisonment for a term not exceeding seven days or to both fine and imprisonment. R.O. 1958, c. 47, s. 21.

Offence for refusing to obey summons

22. (1) Every person employed in connection with a fire patrol or a forest protection force maintained under this Ordinance may, in carrying out his duties, enter upon or into any lands or premises other than a dwelling house at any time of the day or night. R.O. 1958, c. 47, s. 22.

Right to enter upon lands or premises

23. (1) No person shall hinder, obstruct or impede the Forest Supervisor or any forest officer or other person in carrying out his duties under this Ordinance and every person shall upon request give any forest officer information as to his name, address, routes to be followed, locations of camps and other information pertaining to the protection of the forest from fire. R.O. 1958, c. 47, s. 23.

Obstructing persons in carrying out duties

24. (1) Persons who assist at fire fighting for the protection of the settlement in which they live or their place of residence, mine, mill or other real or personal property is located, shall do so without recompense. R.O. 1958, c. 47, s. 24.

No compensation for fire fighting

INJURIOUS INSECTS AND DISEASES

25. (1) Where any trees, timber, slash, brush or debris on any land are found to be infested with any species of injurious insect or plant disease, in circumstances that the Forest Supervisor considers constitute a menace to adjacent timber or a dangerous source for the spread of the insect or plant disease, the Forest Supervisor shall give a written notice over

Injurious insects and diseases

his signature to the owner of such land requiring him to dispose of the infested trees, timber, slash, brush or debris and directing him how to do so.

Time for compliance with notice

(2) An owner of land shall immediately comply with a notice given to him under subsection (1). R.O. 1958, c. 47, s. 25.

NOTICES

Removal of notices

26. (1) No person other than the Forest Supervisor or a forest officer shall mark, remove or destroy any notice that is posted by the Forest Supervisor or a forest officer,

- (a) as a fire warning,
- (b) respecting the ownership of property, or
- (c) for any purpose of this Ordinance. R.O. 1958, c. 47, s. 26.

Service of notice

27. (1) Any notice or order that is required under this Ordinance to be given to a person in writing is properly given when a copy thereof is personally served on the person to whom it is addressed, or sent by registered mail to the last known address of that person, and posted up in two conspicuous places on any lands affected by it. R.O. 1958, c. 47, s. 27.

REGULATIONS

Regulations

28. (1) The Commissioner may make orders and regulations for carrying out the purposes and provisions of this Ordinance, and, without limiting the generality of the foregoing, may make orders and regulations,

- (a) respecting the issue of permits under section 16 ;
- (b) prohibiting the setting out, starting, kindling or spreading of fires in any area of the Territory for such time as he considers necessary, whether in the fire season or otherwise ;
- (c) extending, shortening or designating other periods as part of the fire season if he considers there is an unusual danger of forest fire ; and
- (d) prescribing the fire prevention devices and the fire-fighting equipment required for any engine, steam-boat, burner or destructor and any logging or other industrial operations.

(2) All regulations made under the authority of this section shall be tabled at the session of Council next following their enactment. R.O. 1958, c. 47, s. 28.

PENALTIES

29. (1) A person who violates any provision of this Ordinance or the regulations for which violation no further fine or imprisonment is provided in this Ordinance, commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding two years, or to both fine and imprisonment. R.O. 1958, c. 47, s. 29. General penalty

30. (1) Where an information is laid with respect to any violation of subsection 14(2), a magistrate may prohibit logging or other operations or the further use of the engine, steamboat, burner or destructor involved pending the outcome of the proceedings or until it is equipped with fire prevention devices and fire-fighting equipment satisfactory to the Forest Supervisor. R.O. 1958, c. 47, s. 30. Where information laid operations may be suspended

31. (1) In addition to any penalty that may be imposed upon a person on his conviction for an offence under this Ordinance, Her Majesty may, in any court of competent jurisdiction, take proceedings to recover from such person, all expenses incurred by Her Majesty in controlling and extinguishing any fire that originated or resulted by reason of the offence. R.O. 1958, c. 47, s. 31. Crown may recover expenses caused by an offence

32. (1) Where any person fails to comply with any direction, notice, demand or order made under this Ordinance and the Forest Supervisor has the direction, notice, demand or order carried out by another person, Her Majesty may, in any court of competent jurisdiction, take proceedings to recover from the person in default all expenses incurred by Her Majesty by reason of such default. R.O. 1958, c. 47, s. 32. Recovery where person fails to carry out duty

33. (1) No prosecution for an offence under this Ordinance or the regulations shall be commenced after one year from the date when the offence is alleged to have been committed. R.O. 1958, c. 47, s. 33. Limitation of time for prosecution

CIVIL REMEDIES PRESERVED

34. (1) Nothing in this Ordinance limits or interferes with the right of any person to bring and maintain a civil action for damages occasioned by fire. R.O. 1958, c. 47, s. 34. Civil right to sue not affected

CHAPTER F-10

FRUSTRATED CONTRACTS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Frustrated Contracts Ordinance*. R.O. 1958, c. 48, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
 "contract" includes a contract to which the Crown is a party ; "contract"
 "court" means the court or arbitrator by or before whom a "court"
 matter falls to be determined ;
 "discharged" means relieved from further performance of the "discharged"
 contract. R.O. 1958, c. 48, s. 2.

APPLICATION OF ORDINANCE

3. (1) This Ordinance applies to any contract governed by Application of
ordinance
 the law of the Territory whether made on, before or after the
 30th day of November 1956, that after the 1st day of Decem-
 ber, 1956, has become impossible of performance or been
 otherwise frustrated and the parties to which for that reason
 have been discharged.

(2) This Ordinance does not apply Exceptions
 (a) to a charterparty or a contract for the carriage of goods
 by sea, except a time charterparty or a charterparty by
 way of demise ;
 (b) to a contract of insurance ; or
 (c) to a contract for the sale of specific goods where the
 goods, without the knowledge of the seller, have per-
 ished at the time when the contract is made, or where
 the goods, without the knowledge of the seller, have
 perished at the time when the contract is made, or
 where the goods, without any fault on the part of the
 seller or buyer, perish before the risk passes to the
 buyer. R.O. 1958, c. 48, s. 3.

4. (1) The sums paid or payable to a party in pursuance of Adjustment of
rights and
liabilities
 a contract before the parties were discharged

(a) in the case of sums paid, are recoverable from him as money received by him for the use of the party by whom the sums were paid; and

(b) in the case of sums payable, cease to be payable.

Expenses

(2) If, before the parties were discharged, the party to whom the sums were paid or payable incurred expenses in connection with the performance of the contract, the court, if it considers it just to do so having regard to all the circumstances, may allow him to retain or to recover, as the case may be, the whole or any part of the sums paid or payable not exceeding the amount of the expenses; and without restricting the generality of the foregoing the court, in estimating the amount of the expenses, may include such sum as appears to be reasonable in respect of overhead expenses and in respect of any work or services performed personally by the party incurring the expenses.

Benefits

(3) If, before the parties were discharged, any of them has, by reason of anything done by any other party in connection with the performance of the contract, obtained a valuable benefit other than a payment of money, the court, if it considers it just to do so having regard to all the circumstances, may allow the other party to recover from the party benefited the whole or any part of the value of the benefit.

Assumed obligations

(4) Where a party has assumed an obligation under the contract in consideration of the conferring of a benefit by any other party to the contract upon any other person, whether a party to the contract or not, the court, if it considers it just to do so having regard to all the circumstances, may, for the purposes of subsection (3), treat any benefit so conferred as a benefit obtained by the party who has assumed the obligation.

Insurance

(5) In considering whether any sum ought to be recovered or retained under this section by a party to the contract, the court shall not take into account any sum that, by reason of the circumstances giving rise to the frustration of the contract, has become payable to that party under any contract of insurance unless there was an obligation to insure imposed by an express term of the frustrated contract or by or under any enactment.

Special contractual provisions

(6) Where the contract contains a provision that, upon the true construction of the contract, is intended to have effect in the event of circumstances that operate, or but for the provision would operate, to frustrate the contract, or is intended to have effect whether such circumstances arise or not, the court shall give effect to the provision and shall give effect to this

section only to such extent, if any, as appears to the court to be consistent with the provision.

(7) Where it appears to the court that a part of the contract can be severed properly from the remainder of the contract, being a part wholly performed before the parties were discharged, or so performed except for the payment in respect of that part of the contract of sums that are or can be ascertained under the contract, the court shall treat that part of the contract as if it were a separate contract that had not been frustrated and shall treat this section as applicable only to the remainder of the contract. R.O. 1958, c. 48, s. 4.

Where contract
severable

CHAPTER F-11

FUEL OIL TAX ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Fuel Oil Tax Ordinance*. 1968 (4th) c. 2, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“fuel oil” includes all liquid and gaseous products obtained from petroleum, natural gas, casing head or natural gasoline, benzol, bezine, naptha, coal, coal tar, oil shales, kerosene, gas, oil and any combination of any such products; “fuel oil”

“consumer” means a person who buys fuel oil from a supplier for his own use; “consumer”

“supplier” means a person who sells fuel oil to a consumer; “supplier”

“distributor” means a person who sells fuel oil to a supplier for resale; “distributor”

“inter-provincial carrier” means a motor vehicle which travels from one province to another and is used to transport freight or is capable of carrying a minimum of fifteen passengers; “interprovincial carrier”

“through freighter” means a commercial motor vehicle which travels through the Territory without being loaded or unloaded therein, and is used to transport freight or is capable of carrying a minimum of fifteen passengers; “through freighter”

“single trip permit” means a document issued to the operator of a motor vehicle pursuant to the *Motor Vehicles Ordinance* permitting him to use his vehicle as an inerprovincial carrier or a through freighter for a single trip; “single trip permit”

“province” for the purpose of this Ordinance includes the State of Alaska and the Territory; “province”

“tax” means the tax imposed by this Ordinance. 1968 (4th) c. 2, s. 2; 1969 (3rd) c. 1, s. 1. “tax”

TAX AND COLLECTION

- Consumers to pay tax** **3.** (1) Subject to subsection (2) and section 4, every consumer shall, at the time of purchase or receipt of delivery, pay to his supplier a tax of fourteen cents per imperial gallon of fuel oil for remittance through the distributor to the Territorial Treasurer.
- Aircraft** (2) Every consumer of fuel oil consumed or to be consumed to propel an aircraft shall, at the time of purchase or receipt of delivery, pay to his supplier a tax of two cents per imperial gallon of fuel oil for remittance through the distributor to the Territorial Treasurer. 1968 (4th) c. 2, 3; 1971 (1st) c. 21, s. 1.
- Exemptions** **4.** (1) No tax is payable on fuel oil consumed or to be consumed in stationary generators of electricity, or for heating, lubricating, laying or sprinkling on roads or streets, as cleaning fluids or solvents, or in the operation of farm tractors for farming purposes if the consumer certifies in writing to his supplier that the fuel is required for a tax exempt purpose.
- (2) No tax is payable on fuel oil sold or delivered to:
- (a) the Government of Canada, or
- (b) a visiting force as defined in the *Visiting forces Act*, if the person who receives delivery of the fuel oil has been so authorized by such Government or force and furnishes to the supplier a certificate to that effect.
- (3) No tax is payable on fuel oil when used for *bona fide* pharmaceutical or medical purposes, 1968 (4th) c. 2, s. 4; 1971 (1st) c. 21, s. 2.
- Payment in arrears** **5.** (1) Tax on fuel obtained for a purpose exempt pursuant to section 4 shall be payable if the fuel oil is used for a purpose which is taxable. 1968 (4th) c. 2, s. 5.
- Distributors responsibilities** **6.** (1) Subject to this Ordinance and the regulations the distributor shall:
- (a) remit to the Territorial Treasurer not later than the 25th day of each month all tax received by such distributor in respect of the next preceding month;
- (b) receive tax paid in arrears in accordance with section 5;
- (c) refund tax paid on fuel oil used for a purpose exempt pursuant to section 4;

- (d) furnish the Territorial Treasurer with a return in the prescribed form not later than the 25th day of each month;
- (e) furnish with the return specified in paragraph (d) a certificate in the prescribed form; and
- (f) furnish the Territorial Treasurer with such invoices and other documents and such copies thereof as the Territorial Treasurer may require. 1968 (4th) c. 2, s. 6.

7. (1) Any person appointed by the Commissioner may enter at any reasonable time the business premises occupied by any person, or the premises where his records are kept, to determine whether this Ordinance and the regulations are being and have been complied with, or to inspect, audit and examine books of account, records or documents, or to ascertain the quantities of fuel oil on hand, sold or used by him, and the person occupying the premises shall answer all questions pertaining to these matters, and shall produce such books of account, records or documents as may be required.

Powers of inspection

(2) Where it appears from the inspection, audit or examination of books of account, records or documents that this Ordinance or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate or measure the tax due in such manner and form and by such procedure as the Commissioner may deem adequate, and the Territorial Treasurer shall assess the person for the amount of the tax so calculated. 1968 (4th) c. 2, s. 7.

Assessment of tax due

8. (1) Every person, other than the operator of a through freighter, an inter-provincial carrier or the holder of a single trip permit, who brings into the Territory for his own use a quantity of fuel oil greater than fifty gallons shall, within ten days thereof, pay to the Territorial Treasurer the tax thereon or furnish an exemption certificate in the prescribed form together with such other documents as the Territorial Treasurer may require. 1968 (4th) c. 2, s. 8.

Fuel oil imports for importers consumption

9. (1) Every distributor, supplier and person referred to in section 8 shall

Records

- (a) maintain books and records in respect of his fuel oil transactions in sufficient detail to permit examination and calculation of the tax; and
- (b) preserve such books and records for at least twelve months from the time the tax is collected. 1968 (4th) c. 2, s. 9.

Inter-provincial carrier or through freighter

10. (1) The operator of an inter-provincial carrier or through freighter shall apply to the Registrar of Motor Vehicles for a permit enabling the holder to obtain or purchase fuel oil within the Territory free of tax at the time it is obtained or purchased

Bond

(2) Every applicant for a permit pursuant to subsection (1) shall deposit with the Territorial Treasurer a bond in the prescribed form in an amount to be determined by the Territorial Treasurer.

Application of bond

(3) The Territorial Treasurer may apply a bond to any tax not paid by the depositor of a bond. 1968 (4th) c. 2, s. 10.

Emblem

11. (1) The Registrar of Motor Vehicles shall issue an emblem in the prescribed form to the holder of a permit issued pursuant to section 10.

Emblem must be displayed

(2) An emblem issued pursuant to subsection (1) shall be displayed on the lower right side of the windshield of each inter-provincial carrier and through freighter. 1968 (4th) c. 2, s. 11.

Return to Territorial Treasurer

12. (1) Every holder of a permit issued pursuant to section 10 shall, not later than the 25th day of each month

(a) remit to the Territorial Treasurer tax at the rate of fourteen cents per imperial gallon computed at the consumption rate of five miles per imperial gallon on fuel oil used by such holder within the Territory during the next preceding month; and

(b) furnish the Territorial Treasurer with a return in the prescribed form. 1968 (4th) c. 2, s. 12; 1971 (1st) c. 21, s. 3.

Permit holder to pay tax

13. (1) Every person applying for a single trip permit shall, at the time of application for such permit, pay tax according to the mileage of the trip to be made in the Territory calculated:

(a) in the case of vehicles not exceeding 34 ton capacity at the consumption rate of 15 miles per imperial gallon;

(b) in the case of all other vehicles at the consumption rate of 5 miles per imperial gallon.

Emblem

(2) Upon payment of tax the Registrar of Motor Vehicles shall furnish an applicant for a single trip permit with an emblem in the prescribed form.

(3) An emblem furnished pursuant to subsection (2) shall be displayed on the lower right side of the windshield of the vehicle for which the single trip permit has been issued. Emblem must be displayed

(4) The holder of a single trip permit may obtain or purchase sufficient fuel for the trip free of tax. 1968 (4th) c. 2, s. 13; 1969 (3rd) c. 1, s. 2.

OFFENCES AND PENALTY

14. (1) Every person who

- (a) makes a false statement in any return, certificate or form used under this Ordinance, Offences and penalties
- (b) obtains or attempts to obtain or knowingly induces, assists or attempts to assist another person to obtain an unwarranted exemption from tax,
- (c) knowingly gives false information respecting any fuel oil transaction,
- (d) refuses to produce records or documents respecting fuel oil or any container used for holding fuel oil that is in his possession or control,
- (e) refuses or neglects to pay or remit tax where required to do so by this Ordinance or to execute prescribed returns, certificates or forms in connection with exemptions from tax where required to do so by this Ordinance, or
- (f) violates any other provision of this Ordinance or the regulations,

commits an offence and is liable upon summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment and may be ordered to pay the amount of the tax not paid.

(2) A prosecution under this section does not suspend or affect any remedy for the recovery of tax payable under this Ordinance. 1968 (4th) c. 2, s. 14. Prosecution does not affect other remedies

15. (1) In any prosecution for an offence under this Ordinance or in any action or other proceedings brought for the recovery of tax, the burden of proving that he has paid or remitted tax or that he is exempt under this Ordinance from liability to pay or remit tax is on the accused or the defendant. 1968 (4th) c. 2, s. 15. Burden of proof

16. (1) No prosecution for an offence under this Ordinance shall be commenced after two years from the date of the commission of the offence. 1968 (4th) c. 2, s. 16. Prosecution within two years

REGULATIONS

Regulations

- 17. (1) The Commissioner may make regulations**
- (a) prescribing forms,
 - (b) providing for the exemption of operators of motor vehicles or classes of motor vehicles from any of the provisions of this Ordinance,
 - (c) providing for refunds or rebates of any tax chargeable under this Ordinance,
 - (d) for carrying out the purposes and provisions of this Ordinance. 1968 (4th) c. 2, s. 17; 1969 (2nd) c. 10, s. 1.

CHAPTER F-12

FUR EXPORT ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Fur Export Ordinance*. R.O. 1958, c. 49, s. 1. Short title

INTERPRETATION

- 2. (1) In this Ordinance** Definitions
- “export” means to send, ship or otherwise convey or cause to be sent, shipped or otherwise conveyed from or out of the Territory to any place outside the Territory; “export”
- “fur-bearing animal” means any animal referred to in Schedule I; “fur-bearing animal”
- “furs” means the raw pelt or skin or any part thereof of any fur-bearing animal caught in the Territory; “furs”
- “officer” means “officer”
- (a) a permit officer, or
- (b) a game guardian under the *Game Ordinance*;
- “package” includes a box, bale, trunk, bag, barrel or other container used in packing or marketing furs; “package”
- “permit” means a permit to export furs in the prescribed form; “permit”
- “permit officer” means “permit officer”
- (a) a member of the Royal Canadian Mounted Police, or
- (b) a person appointed by the Commissioner to issue permits;
- “tax” means the sum or rate payable on exporting furs of animals referred to in Schedule I; “tax”
- “territorial employee” means a person who receives a salary paid out of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 49, s. 2. “territorial employee”

PERMITS

Issue of permits **3.** (1) A permit officer may, upon receipt of the appropriate tax, issue a permit for the exportation of furs. R.O. 1958, c. 49, s. 3.

Stamp, tag or seal **4.** (1) A permit officer shall stamp, tag or seal, with a stamp, tag or seal approved by the Commissioner, each fur or package of furs for which a permit has been issued. R.O. 1958, c. 49, s. 4.

No export without stamp, tag or seal **5.** (1) No person shall export any furs unless the furs are stamped, tagged or sealed as provided for in section 4. R.O. 1958, c. 49, s. 5.

Transportation companies, etc. **6.** (1) No person shall accept for transportation furs for export unless the furs or package containing the furs has been stamped, tagged or sealed pursuant to section 4. R.O. 1958, c. 49, s. 6.

Unauthorized permits **7.** (1) No person, other than a permit officer, shall have in his possession blank permits, seals, stamps or other equipment prescribed or authorized by or under this Ordinance to be used by permit officers. R.O. 1958, c. 49, s. 7.

Destruction of seals, tags or stamps **8.** (1) No person other than a permit officer shall remove, mutilate or destroy any tags, seals, stamps or other markings attached to any furs or package of furs by a permit officer. R.O. 1958, c. 49, s. 8.

Scientific purposes **9.** (1) The Commissioner may authorize the issue of a permit without payment of tax where furs are to be used for scientific purposes. R.O. 1958, c. 49, s. 9.

SEIZURE AND FORFEITURE

Inspection **10.** (1) An officer may enter and search any aircraft, vessel or vehicle in or upon which he reasonably believes furs subject to tax under this Ordinance may be found and may open and inspect any package that he has reason to believe contains such furs.

Seizure (2) Where in the opinion of an officer the furs inspected by him are intended for export and they are not stamped, tagged or sealed as required by section 4, the officer may seize the furs.

Double tax (3) The person from whom furs have been seized or a person who has an interest in them is liable to pay double the

amount of tax in respect of the furs in addition to any other penalties to which he may be liable under this Ordinance.

(4) Unless within thirty days after the date of seizure a person from whom furs have been seized or a person who has an interest in them Forfeiture

(a) pays the double tax under subsection (3), or

(b) satisfies a justice, upon summary application made to him for that purpose, that the furs were not intended for export,

furs seized under subsection (2) are forfeited to Her Majesty. R.O. 1958, c. 49, s. 10.

OFFENCES

11. (1) Every person who violates a provision of this Ordinance commits an offence and is liable upon summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. R.O. 1958, c. 49, s. 11. Offences and penalties

12. (1) No prosecution for an offence under this Ordinance shall be commenced after one year from the day when the offence is alleged to have been committed. R.O. 1958, c. 49, s. 12. Time for prosecution

13. (1) In any prosecution for an offence under this Ordinance, the onus of proof that any pelt, skin or part thereof in respect of which the prosecution is made is not the pelt, skin or part thereof of a fur-bearing animal caught in the Territory is on the person accused of the offence. R.O. 1958, c. 49, s. 13. Onus of proof

PERMIT OFFICER'S FEE

14. (1) Out of the Yukon Consolidated Revenue Fund, the Commissioner may pay to a permit officer, other than a territorial employee, fees not exceeding five per cent of the tax collected by the permit officer. R.O. 1958, c. 49, s. 14.

15. (1) The Commissioner may

(a) prescribe the sum or rate payable on exporting furs of animals referred to in Schedule I, and

(b) prescribe forms. 1971 (1st) c. 22, s. 1. prescribed tax and forms

SCHEDULE I

Animals in respect of whose furs tax is payable when exported from the Yukon Territory: bear, white or polar; beaver; coyote; cougar; fisher; fox, black, cross, red, silver, blue; lynx; marten; mink; muskrat (musquash); otter; squirrel; weasel (ermine); wolf; wolverine. R.O. 1958, c. 49, Sched. A; 1961 (2nd) c. 11, s. 1; 1968 (2nd) c. 5, s. 1; 1971 (1st) c. 22, s. 2.

CHAPTER G-1

GAME ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Game Ordinance*. Short title
R.O. 1958, c. 50, s. 1.

PART I

INTERPRETATION AND APPLICATION

INTERPRETATION

2. (1) In this Ordinance

Definitions

“big game” means bison (buffalo), mountain sheep, mountain goat, any member of the deer family, whether known as caribou, moose, deer, wapiti (elk) or otherwise, bear and any other animal declared by the Commissioner to be big game;

“big game”

“certificate of registration” means a valid and subsisting certificate of registration for a trapping or a guiding area issued under this Ordinance;

“certificate of registration”

“Director” means the Director of Game;

“Director”

“Eskimo” includes

“Eskimo”

(a) a male person who is a direct descendant in the male line of a male person who is or was of the race of aborigines commonly referred to as Eskimos.

(b) the legitimate child of a person described in paragraph (a)

(c) the illegitimate child of a female person described in paragraph (b), and

(d) the wife or widow of a person described in paragraph (a), (b) or (c).

but does not include the Eskimo wife of a person other than an Eskimo, unless she has been deserted by or divorced from that person or has become the widow of that person, except that any person who, upon the 1st day of July, 1958, was considered to be an Eskimo for the purposes of the game laws of the Territory shall, unless he elects not

- to be so considered, be deemed to continue to be an Eskimo;
- “fur-bearing animal” “fur-bearing animal” means beaver, fisher, fox, lynx, marten, mink, muskrat, otter, squirrel, weasel, ermine or wolverine and any other animal declared by the Commissioner to be a fur-bearing animal;
- “fur farm” “fur farm” means a place where fur-bearing animals are kept in captivity;
- “game” “game” means big game, fur-bearing animals and game birds which are wild by nature and while in a state of nature and includes the head, skin or other part thereof;
- “game bird” “game bird” means a bird of any species of the following groups: *Anseriformes*, commonly known as ducks, geese and swans; *Gruiformes*, commonly known as cranes, rails and coots; *Charadriiformes*, commonly known as plovers, turnstones, snipe, sandpipers, curlews, yellowlegs, knots, dowitchers, godwits, sanderlings and phalaropes; *Galliformes*, commonly known as grouse, partridge, ptarmigan, prairie chicken and pheasants;
- “game guardian” “game guardian” means any person appointed as such under this Ordinance;
- “guide” “guide” means a person who holds a chief guide or assistant guide licence;
- “hunting” “hunting” means any chasing, pursuing, worrying, following after or on the trail of, stalking or lying in wait for the purpose of taking game, and any trapping, attempting to trap, or shooting at game, whether or not the game is then or subsequently captured, killed or injured;
- “Indian” “Indian” means a person who is defined as such in the *Indian Act*, and includes the Indian wife of a person other than an Indian who has been deserted by or divorced from that person or has become the widow of that person;
- “licence” “licence” means a valid and subsiding licence issued under this Ordinance or the regulations;
- “licence year” “licence year” means the period from the 1st day of July to the 30th day of June next following;
- “motor vehicle” “motor vehicle” means a vehicle that is drawn, propelled or driven by any means other than by muscular power, but does not include a vehicle that runs or is intended to run only upon rails;

- “open season” with respect to any kind of game means the period during which that kind of game may be hunted or taken; “open season”
- “outfitter” means a person who holds an outfitter’s licence; “outfitter”
- “predatory animal” means a cougar, coyote, wolf or any other animal declared by the Commissioner to be a predatory animal; “predatory animal”
- “private game farm” means land in respect of which the owner or occupant has obtained a licence to keep animals and birds that are wild by nature in captivity for propagation or commercial purposes; “private game farm”
- “registered guiding area” means an area or location defined and registered under this Ordinance for the outfitting and guiding of non-residents who desire to engage in the hunting of big game; “registered guiding area”
- “registered trapping area” means an area or location defined and registered under this Ordinance for the taking of fur-bearing animals; “registered trapping area”
- “vehicle” means conveyance of any kind other than a boat and, without restricting the generality of the foregoing, includes a carriage, rig, wagon, car, sleigh, hayrack, bicycle, motorcycle, automobile, tractor, snowmobile, snowplane, toboggan, aircraft and helicopter; “vehicle”
- (2) Where a period is expressed in this Ordinance or regulations to be a period from one day to another, the period shall be reckoned inclusively of the first and last days so expressed. Period includes first and last days
- (3) For the purposes of this Ordinance, a person has anything in possession when he has it in his personal possession, or knowingly Possession defined
- (a) has it in the actual possession or custody of another person, or
- (b) has it in any place whether or not that place belongs to or is occupied by him, for the use or benefit of himself or another person.
- (4) Where in this Ordinance reference is made to a resident in relation to a licence, “resident” means “resident”
- (a) a Canadian citizen or British subject who has
- (i) resided in the Territory for six months immediately prior to the day on which the licence is issued, or
- (ii) resided in the Territory for thirty days immediately prior to the day on which the licence is issued, if

- he has at any time resided in the Territory for a continuous period of at least six months; or
- (b) a person other than a Canadian citizen or British subject who has
- (i) resided in the Territory for two years immediately prior to the day on which the licence is issued, or
 - (ii) resided in the Territory for thirty days immediately prior to the day on which the licence was issued, if he has at any time resided in the Territory for a continuous period of at least two years. R.O. 1958, c. 50, s. 2; 1959 (1st) c. 3, s. 1; 1967 (1st) c. 11, s. 1(1), (2), (3), (4); 1971 (1st) c. 23, s. 1(1), (2).

APPLICATION

- Subject to Act** **3.** (1) This Ordinance is subject to the *Migratory Birds Convention Act* and the regulations thereunder.
- Ownership of game** (2) The property in all game within the Territory is vested in Her Majesty and no person shall acquire any right or property therein otherwise than in accordance with this Ordinance and the regulations. R.O. 1958, c. 50, s. 3.

PART II

GENERAL PROHIBITIONS AND RESTRICTIONS

- Not to hunt without licence** **4.** (1) No person shall hunt game in the Territory unless authorized by this Ordinance or the regulations, or by a licence issued to him.
- Exceptions in licence** (2) A licence to hunt game shall not entitle the holder to
- (a) hunt game except during an open season for that game and in an area to which that open season extends,
 - (b) hunt in excess of the quota permitted by the Ordinance or the regulations,
 - (c) hunt game of a species, age or sex protected by this Ordinance or the regulations, or
 - (d) hunt game by any method or means prohibited by this Ordinance or the regulations.
- May dispose of improvements** (3) 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. R.O. 1958, c. 50, s. 4; 1970 (2nd) c. 5, s. 1.

5. (1) Nothing in this Ordinance shall be construed to prohibit any person who holds a licence or permit under the *Migratory Birds Convention Act* or regulations thereunder from hunting game birds or taking nests or eggs in accordance with that licence or permit. Exemptions

(2) Notwithstanding any other provisions of this Ordinance, game may be hunted and eggs of upland game birds may be taken by a person who needs the game or eggs to prevent starvation of himself and his immediate family. Game may be taken to prevent starvation

(3) A person who hunts game or takes eggs under subsection (2) shall report as soon as practicable thereafter to a game guardian the number and kind of game or eggs taken or killed, and shall furnish such other information as may be required by a game guardian. R.O. 1958, c. 50, s. 5. To report number taken

6. (1) Except as provided by subsection (2), no person shall set out, use or employ a snare for the taking or killing of game. Use of snares

(2) Notwithstanding subsection (1), the holder of a General Hunting Licence or an Assistant Trapper's Licence may set out, use or employ snares for the taking or killing of fur-bearing animals within his registered trapping area. R.O. 1958, c. 50, s. 6; 1971 (1st) c. 23, s. 2.

7. (1) No person shall use poison or drugs for the purpose of taking or killing game, or have in his possession poison or drugs generally used for taking or killing game when he is engaged in hunting operations. Poison and drugs prohibited

(2) Notwithstanding subsection (1), any person may, with the permission of the Director, possess and use poison or drugs to take or kill predatory animals. R.O. 1958, c. 50, s. 7; 1967 (1st) c. 11, s. 2. Exception

8. (1) No person shall, for the purpose of hunting big game, use Firearms for big game

- (a) a firearm other than
 - (i) a non-automatic rifle if .24 calibre or larger, or
 - (ii) a shotgun, or
- (b) a full metal cased or jacketed non-expanding bullet or ball commonly known as "service ammunition" or a bullet commonly known as "tracer".

(2) No person shall Firearms and vehicles

- (a) discharge a firearm from a vehicle,

- (b) have in or on a vehicle, any firearm in which there is a live bullet or cartridge either in the magazine or firing chamber, or
- (c) operate a vehicle at any time in any manner intended or reasonably to be expected to harass, drive or pursue any game or other animal wild by nature.

Discharge on highway

(3) No person shall discharge a firearm on or across a **maintained portion of a public road or highway**. R.O. 1958, c. 50, s. 8; 1959 (1st) c. 3, s. 2; 1967 (1st) c. 11, s. 3; 1971 (1st) c. 23, 3.

Certain contrivances forbidden

9. (1) No person shall use or employ for the purpose of hunting game and predatory animals any of the following methods, means and contrivances: set gun, spear, pit, dead-fall, fire, jacklight, searchlight or other artificial light, artificial salt licks or spring traps having a jaw spread exceeding seven inches. R.O. 1958, c. 50, s. 9.

Swimming animals

10. (1) No person shall shoot at, wound or kill any big game while it is swimming. 1959 (1st) c. 3, s. 3.

Dogs

11. (1) No person shall use or allow any dog to hunt or run any big game. 1959 (1st) c. 3, s. 3.

Aircraft

12. (1) No person shall

- (a) hunt game from or by means of an aircraft; or
- (b) from an aircraft in flight, locate game birds or big game and communicate the location or approximate location thereof by any signal to any person on the ground or in a vehicle, for the purpose of hunting such game birds or big game.

Use of aircraft for transportation

(2) Nothing in subsection (1) shall be deemed to prohibit a hunter, trapper, guide or outfitter from making use of an aircraft as means of transportation between the settlement in the Territory where he is outfitted and his principal base camp.

Inspection of flight records

(3) Whenever so required by a game guardian every operator of an aircraft who has transported a hunter, trapper, guide or outfitter under subsection (1) shall make available for inspection by such game guardian any log books or other records pertaining to any such flight.

Designation of base camp

(4) Whenever so required by a game guardian, every hunter, trapper, guide or outfitter shall designate the settlement at which he outfits, the location of his principal base

camp, and the area in which he intends to hunt or trap. R.O. 1958, c. 50, s. 10; 1967 (1st) c. 11, s. 4.

13. (1) No person shall hunt, transport big game or hunters by helicopter with the exception of hunters requiring medical aid. 1967 (1st) c. 11, s. 5. Helicopter

14. (1) No person who has killed game other than bear shall Abandonment of game

(a) abandon any portion of the flesh thereof that is suitable for human food.

(b) allow any portion of the flesh thereof that is suitable for human food to be destroyed or spoiled.

(c) allow any portion of the flesh thereof that is suitable for human food to be used as bait in trapping operations or to be fed to captive fur-bearing animals or domestic animals, including dogs, or

(d) allow the pelt of a fur-bearing animal in his possession to become deteriorated, spoiled or destroyed. R.O. 1958, c. 50, s. 11.

15. (1) No person shall have in his possession, game killed, taken, bought or obtained by barter, except in accordance with this Ordinance or the regulations. Possession of game

(2) It shall be a defence for a person charged pursuant to subsection (1) to prove that the game found in his possession was killed, taken, bought or obtained by barter pursuant to a permit or licence issued in accordance with the laws in force in the place here the game was killed, taken, bought or obtained by barter, or he has declared his possession of such game to a game guardian, deputy game guardian or peace officer upon entry into the Territory. R.O. 1958, c. 50, s. 12; 1967 (1st) c. 11, s. 6; 1971 (1st) c. 23, s. 4. Defence for person charged

16. (1) Subject to subsection (2), no person shall Sale of game prohibited

(a) buy, sell or barter, or

(b) offer to buy, sell or barter

any big game, game birds or parts thereof.

(2) The Director may grant permission to any person for the purchase, sale or barter of antlers, horns or cape or pelt of any big game. R.O. 1958, c. 50, s. 13; 1967 (1st) c. 11, s. 6; 1971 (1st) c. 23, s. 5. When sale of antlers, horns, cape or pelt allowed

17. (1) No person shall kill or offer to kill for gain or reward any big game or game birds. 1967 (1st) c. 11, s. 6. When killing of game prohibited

When consumption of game prohibited

18. (1) Subject to subsection (2) and paragraph 88(1)(g), no game or parts thereof shall be served for food at any hotel, restaurant, public dining room, school, mission, hostel, hospital, camp or dining room of a mining, logging, construction or other commercial or industrial establishment, with a meal for which a charge is made either directly or indirectly.

Exception

(2) Game or parts thereof may be served for food at missions in the settlement of Old Crow. 1967 (1st) c. 11, s. 6.

No contracts for unlawful hunting

19. (1) No person shall employ, or enter into a contract or agreement with, any other person to hunt game or to take any egg or nest or part thereof contrary to this Ordinance or the regulations.

Counselling offence

(2) No person shall counsel, procure or incite another person to commit an offence under this Ordinance or regulations.

Obstructing a game guardian

(3) Any person who obstructs or interferes with a game guardian or deputy game guardian in the performance of his duties this Ordinance is guilty of an offence. R.O. 1958, c. 50, s. 14; 1967 (1st) c. 11, s. 7.

Hunters under age of sixteen

20. (1) A person under the age of sixteen years shall not hunt unless he is accompanied by a person over twenty-one years of age who is the holder of a licence issued pursuant to section 43. 1959 (1st) c. 3, s. 4.

PART III

SPECIAL PROHIBITIONS AND RESTRICTIONS

BIG GAME AND GAME BIRDS

Hunting big game prohibited

21. (1) No person shall hunt, take, wound or kill big game that are wild by nature and in a state of nature unless he is authorized to do so by this Ordinance or by a licence or permit issued under this Ordinance. R.O. 1958, c. 50, s. 15; 1967 (1st) c. 11, s. 8.

Taking or killing big game and game birds

22. (1) No person shall take or kill big game or game birds except in accordance with the regulations. R.O. 1958, c. 50, s. 16; 1967 (1st) c. 11, s. 8.

23. (1) Subject to subsection (2), no person who is not a resident shall engage in hunting big game unless he is outfitted by an outfitter and accompanied by a guide.

Guide required for non-residents

(2) Where the Director is satisfied that no commercial transaction is involved and that it is proper to do so, he may issue to a resident who is in possession of a hunting licence, a permit permitting a non-resident to hunt big game without a guide while accompanied by such resident. R.O. 1958, c. 50, s. 17; 1971 (1st) c. 23, s. 6.

Permit

24. (1) Every person who, accidentally or otherwise, kills any big game in excess of the number permitted to be taken by this Ordinance or the regulations, or any animal which, by virtue of its age or sex is protected under section 22,

Accidental killing

- (a) shall immediately and properly dress the carcass, take away the meat and hide, keep them in a good state of preservation and deliver them to the nearest game guardian who shall dispose of the meat and hide in accordance with instructions from the Director; and
- (b) shall at the time of delivery of the meat and hide to a game guardian, furnish an affidavit setting forth the circumstances of the killing. R.O. 1958, c. 50, s. 18.

25. (1) No person shall hunt game birds between the hours of one hour after sunset, and one hour before sunrise on the next succeeding day.

Hours of hunting

(2) No person shall hunt, take, wound or kill big game in the period commencing one-half hour after sunset, and ending one-half hour before sunrise on the next day.

Idem

(3) No person shall hunt, take, wound or kill any big game or game bird that is upon or over land enclosed by a fence or land under cultivation or on which buildings are erected, or enter upon such land for the purpose of doing so without the consent of the owner or occupant of the land.

Hunting on or over land

(4) Subsection (3) does not apply with respect to lands described therein unless signs, at least twelve inches long and ten inches wide, stating "Hunting and Shooting Prohibited" or words of like effect, are placed in a prominent position at each corner of the land and along each boundary at intervals of not more than one-half mile.

Signs required

(5) No person shall erect or place or cause to be erected or placed a sign referred to in subsection (3) at any corner or along the boundary of any land of which he is not the owner

Erection of signs

or occupant unless he has the consent of the owner or occupant to do so.

Defacing or removal of signs

(6) No person shall tear down, remove, damage, deface or cover up a sign referred to in subsection (3) that has been erected or placed by or with the consent of the owner or occupant of the land. R.O. 1958, c. 50, s. 19; 1967 (1st) c. 11, s. 9, 10.

Game export licence

26. (1) The Director may issue a licence to export big game and game birds.

Prohibition

(2) No person shall ship or remove any big game or game birds from the Territory, except under a licence issued under subsection (1).

Restrictions

(3) No export licence shall be issued under subsection (1) to a person who is not a resident unless

(a) a hunting licence, completed and signed by the outfitter or guide in charge of the party of which that person is a member, is produced; and

(b) the prescribed trophy fee is paid. 1967 (1st) c. 11, s. 11; 1971 (1st) c. 23, s. 7.

Game birds and others protected

27. (1) Except as authorized by this Ordinance, no person shall hunt, take, wound or kill or have in his possession any game birds or other birds that are wild by nature or molest, injure, destroy or take the nests, or eggs of any such birds. R.O. 1958, c. 50, s. 20; 1967 (1st) c. 11, s. 12; 1971 (1st) c. 23, s. 8.

No removal etc. of traps

28. (1) Except as authorized by this Ordinance, no person shall remove, molest, spring or in any way interfere with traps or other contrivances set by another person for the taking of fur-bearing animals. R.O. 1958, c. 50, s. 21; 1971 (1st) c. 23, s. 9.

FUR-BEARING ANIMALS

Setting and resetting of traps

29. (1) Except during the open season, no person shall set or reset a trap or contrivance used in connection with trapping operations.

Traps to be removed or sprung on or before last day of open season

(2) A person who uses traps or other contrivances for hunting game shall remove or spring such traps or other contrivances on or before the last day of the open season. R.O. 1958, c. 50, s. 22.

30. (1) Except as authorized by the Director, no person shall set traps or other contrivances for predatory animals between the 1st day of April and the 31st day of October in any year, but predatory animals may be shot at any time. R.O. 1958, c. 50, s. 23. Predatory animals

31. (1) No person shall, at any time, Muskrat
 (a) hunt any muskrat with a shotgun; or
 (b) break or destroy any muskrat house except that a muskrat house may be opened for the purpose of setting traps therein if reasonable care is taken to prevent the subsequent freezing of any such muskrat house. R.O. 1958, c. 50, s. 24.

32. (1) Subject to subsection (2), no person shall cut, break, destroy or interfere with a beaver house or beaver dam. Not to interfere with beaver house or dam

(2) The Director may authorize the injury or destruction of beaver dams or houses and the removal of beaver therefrom if the injury or destruction is necessary for the carrying on of mining operations or driving timber on streams or is necessary to prevent damage to roads or property. R.O. 1958, c. 50, s. 25; 1959 (1st) c. 3, s. 5. Authority to destroy

PART IV

LICENCES AND CERTIFICATES

GENERAL

33. (1) The licences and certificates of registration that may be issued under this Ordinance are as follows: Types of licences

- (a) licence to export big game under section 26;
- (b) licence to hunt big game and game birds under section 43;
- (c) licence to hunt game birds under section 43;
- (d) licence to hunt bear under section 43;
- (e) general hunting licence under section 44;
- (f) licence for scientific purposes under section 45;
- (g) outfitter's licence under section 46;
- (h) chief guide licence under section 51;
- (i) assistant guide licence under section 51;
- (j) certificate of registration of guiding area under section 57;

- (k) certificate of registration of trapping area under section 63;
- (l) fur farm or private game farm licence under section 74;
- (m) licence to take live game animals for propagation or for export under section 77;
- (n) licence to import fur-bearing animals under section 81;
- (o) trading post licence under section 84;
- (p) outpost licence under section 84;
- (q) licence to trade and traffic in fur-bearing animals under section 85;
- (r) taxidermist licence under section 46; and
- (s) private game farm licence under section 73. R.O. 1958, c. 50, s. 26; 1967 (1st) c. 11, s. 13; 1971 (1st) c. 23, s. 10.

Issue of licences **34. (1)** An application for any licence or certificate of registration may be made to the Director or a game guardian, and shall be in a prescribed form, and accompanied by the prescribed fee.

False information (2) No person shall furnish any false information or make a false statement in any application for a licence or certificate of registration required to be made pursuant to this Ordinance or the regulations.

Licence void (3) A licence or certificate of registration issued to any person who furnishes any false information or makes any false statement in an application for a licence or certificate of registration is void and shall be deemed to have always been void.

Signature of licensee required (4) No hunting licence or general hunting licence is valid unless the signature of the person to whom the licence is issued is endorsed thereon and in the case of a person signing by mark the mark shall be witnessed.

Age of licensee (5) No person under the age of fourteen years is eligible for any licence. R.O. 1958, c. 50, s. 27; 1959 (1st) c. 3, s. 6.

Effect of licence or certificate of registration **35. (1)** A licence or certificate of registration entitles the person to whom it is issued to carry on such operations as are authorized by the licence or certificate of registration and in accordance with this Ordinance and the regulations. R.O. 1958, c. 50, s. 28.

Certificate of game killed **36. (1)** Every licence holder, upon request, shall be entitled to receive from the Director a certificate showing the game killed by him. R.O. 1958, c. 50, s. 29.

37. (1) Upon the request of a game guardian, every person shall submit for inspection by such game guardian any licence or certificate of registration issued to him. R.O. 1958, c. 50, s. 30.

Submit for inspection of game guardian

38. (1) No licence or certificate of registration shall be sold, transferred or assigned without the consent of the Commissioner.

Transfer, etc., prohibited

(2) No person shall knowingly allow his licence or certificate of registration to be used by another person.

Not to allow another to use licence

(3) No person shall knowingly use the licence or certificate of registration of another person. R.O. 1958, c. 50, s. 31.

Not to use another's licence

39. (1) Subject to section 51, unless sooner cancelled, each licence expires on the expiry date mentioned in the licence or, if no expiry date is mentioned, on the 30th day of June next following its date of issue. R.O. 1958, c. 50, s. 32.

Date of expiry of licence

40. (1) Subject to subsection (2), every person to whom a licence has been issued shall, before leaving the Territory or as soon as practicable after the expiration of the licence, whichever first occurs, return the licence to a game guardian with the affidavit or declaration on the back of said licence duly completed setting forth the number and kind of game killed, trapped, taken, traded or trafficked in under its authority.

Return of licence

(2) Where a licensee is unable to return his licence to a game guardian as required by subsection (1), he shall, before leaving the Territory or as soon as practicable after the expiration of the licence, whichever first occurs, forward to the nearest game guardian his affidavit setting forth the number and kind of game killed, trapped, taken, traded or trafficked in during the period covered by the licence. R.O. 1958, c. 50, s. 33.

Idem

41. (1) A licence or certificate of registration held by a person convicted of an offence against this Ordinance shall, in addition to any other penalty imposed upon such conviction, be suspended or cancelled.

Cancellation upon conviction

(2) Upon the suspension or cancellation of any licence or certificate of registration pursuant to subsection (1), the holder thereof shall surrender the licence or certificate forthwith to the justice or to a game guardian. R.O. 1958, c. 50, s. 34; 1959 (1st) c. 3, s. 7.

Surrender of licence to game guardian

Penalty for false reports

42. (1) Any person who makes a false report as to the amount of game killed, trapped, taken or traded in, or who fails or neglects to return his licence within the time specified in the Ordinance or regulations commits an offence, and, in addition to any other penalty provided in the Ordinance or regulations, may be refused a licence in any subsequent year. R.O. 1958, c. 50, s. 35.

HUNTING LICENCES

Issue of hunting licence

43. (1) The Director or a game guardian may upon application therefor issue a licence entitling the licensee, while carrying the licence upon his person, to hunt

- (a) big game and game birds;
- (b) game birds; or
- (c) bear.

(2) No person shall at the same time hold more than one licence issued under this section. R.O. 1958, c. 50, s. 36; 1959 (1st) c. 3, s. 8.

GENERAL HUNTING LICENCE

Issue of licence

44. (1) Subject to this Ordinance and the regulations, the Director may upon application therefor issue a general hunting licence to any person who is a Canadian citizen over the age of sixteen years and is largely dependent upon hunting and trapping for a livelihood, and

- (a) has resided continuously in the Territory for three years immediately prior to his application,
- (b) does not reside in the Territory but for three years immediately preceding the date of his application was licenced to hunt and did hunt fur-bearing animals in the Territory, or
- (c) is the child or widow of a person referred to in paragraph (a) or (b).

Entitlement

(2) A general hunting licence issued under subsection (1) entitles the holder thereof to hunt big game, game birds and fur-bearing animals in accordance with this Ordinance and the regulations.

Person under sixteen

(3) A person under the age of sixteen years who assists his parents or guardian in lawful hunting operations does not require a licence so to assist. R.O. 1958, c. 50, s. 37.

SCIENTIFIC LICENCE

45. (1) The Commissioner may issue a licence to a person to take and export big game, fur-bearing animals or non-migratory game birds or the eggs or nests of such birds for scientific purposes. Commissioner may issue licence

(2) The licence specified in subsection (1) may be issued only Application only

(a) upon application from a person whose application is accompanied by written testimonials from two scientists of recognized standing; or

(b) upon application from and for the purpose of

(i) a recognized museum, university or scientific society, or

(ii) a department of the Government of Canada or of a province of Canada or of the government of any country or state other than Canada.

(3) The holder of a licence for scientific purposes shall be exempted from the provisions of sections 23 and 83. R.O. 1958, c. 50, s. 38. Exemption

46. (1) No person shall do business as a taxidermist unless he has a licence from the Director authorizing him to do so. 1967 (1st) c. 11, s. 14. Taxidermist licence

47. (1) No taxidermist shall have game in his possession for the purpose of preserving, mounting, stuffing or selling it, without also having a statement signed by the owner or person from whom it was procured that such game was legally obtained by such owner or person. Possession of game

(2) Every taxidermist shall keep a duplicate receipt book in which he shall record all game received for the purpose or preserving, mounting, stuffing or selling. Receipt book

(3) The duplicate receipt book referred to in subsection (2) shall be made available for inspection by a game guardian at any reasonable time and a copy of such book shall be submitted each year to the Director. 1967 (1st) c. 11, s. 14. Inspection and copy

PART V

GUIDES AND OUTFITTERS

OUTFITTERS

- Outfitters** **48.** (1) The Director may, upon application therefor, issue or renew an outfitter's licence to any natural person who is a resident and a *bona fide* owner of equipment in good condition and repair that in the opinion of the Director is sufficient to take care of such number of hunters in the field not being less than four as the Director may endorse upon the licence.
- Expiry date** (2) Unless sooner cancelled, every outfitter's licence expires on the 31st day of December of the year in which it was issued.
- Keep equipment in good order** (3) Every outfitter shall keep his equipment in good condition and repair at all times, and shall make it available for inspection by the Director or a game guardian at all reasonable hours.
- Sanitary control** (4) Every outfitter shall ensure that the guide in charge of every party of hunters that he outfits complies with any Ordinance or regulations under any Ordinance respecting
- (a) the sanitation of camps and camp sites,
 - (b) the preparation and handling of food, and
 - (c) the health of employees preparing food for the hunting party.
- Report where no compliance** (5) Whenever the Director, or a game guardian, finds upon inspection that an outfitter has not complied with subsection (3) or (4), he shall forthwith report his findings in writing to the Commissioner, who may, in his discretion, order the suspension or cancellation of the outfitter's licence. R. O. 1958, c. 50, s. 39; 1959 (2nd) c. 4, s. 1; 1971 (1st) c. 23, s. 11.
- Licence required to outfit hunter** **49.** (1) Except as authorized by this Ordinance, no person shall rent or let any saddle horse, pack horse, vehicle, boat or other equipment to any non-resident for the purpose of being used in the hunting of big game without first obtaining an outfitter's licence.
- Equipment rental** (2) Notwithstanding subsection (1), any person may rent or let any saddle horse, pack horse, vehicle, boat or other equipment to an outfitter. R.O. 1958, c. 50, s. 40; 1971 (1st) c. 23, s. 12.

50. (1) For each party of non-resident hunters, an outfitter shall provide one chief guide who shall be in charge of and accompany such party in the field. Provide chief guide

(2) The chief guide in charge of a party in the field may act as guide for one hunter and an additional guide shall be provided for each additional hunter in the party. Chief guide may act as guide

(3) No outfitter shall hire, engage or employ to act as a guide a person who is not the holder of a guide's licence. R.O. 1958, c. 50, s. 41; 1971 (1st) c. 23, s. 13. Prohibition

51. (1) Guides' licences shall be of two kinds, namely assistant guide licences and chief guide licences. Guides' licences

(2) The Director may, upon application therefor, issue an assistant guide licence to a Canadian citizen who can satisfy the Director that Qualifications

(a) he is physically sound and of good character; and

(b) he has sufficient knowledge of

(i) the area to be hunted in,

(ii) hunting methods,

(iii) care of trophies in the field,

(iv) first aid, and

(v) this Ordinance and the regulations.

(3) The Director may issue a chief guide licence to a resident who Qualifications of chief guide

(a) held a chief guide licence in the preceding year, or

(b) has acted as an assistant guide for at least three years and, in the opinion of the Director, is capable of assuming the responsibility for a party of hunters in the field.

(4) Unless sooner cancelled, every guide's licence expires on the 31st day of December of the year in which it was issued. R.O. 1958, c. 50, s. 42; 1959 (1st) c. 3, s. 9; 1965 (1st) c. 5, s. 1; 1967 (1st) c. 11, s. 15. Expiry date

52. (1) Except as authorized by this Ordinance, no person shall act as a guide to any non-resident while afield for the purpose of hunting big game without first obtaining a guide's licence. May not act as guide without licence

(2) No guide shall act as a guide for any person without first satisfying himself that such person has the proper licence for the kind of game to be hunted. R.O. 1958, c. 50, s. 43; 1971 (1st) c. 23, s. 14. Duty of guide

Guide to prevent violations **53.** (1) If he can do so without using force, every guide shall prevent any person for whom he is acting as a guide from violating this Ordinance or the regulations. R.O. 1958, c. 50, s. 44.

Carrying firearms **54.** (1) Every guide may carry, but not use, firearms belonging to any person for whom he is acting as a guide. R.O. 1958, c. 50, s. 45.

Guide not to kill big game **55.** (1) Except to prevent personal injury or loss of life, no guide shall, while he is acting as a guide, kill, take or catch any big game. R.O. 1958, c. 50, s. 46.

Return completed by guide **56.** (1) Every chief guide shall, on his return from a big game hunting trip with a party for which he has been engaged as a guide,
 (a) make a return in writing on a prescribed form; and
 (b) endorse on the back of each non-resident hunting licence the number and kinds of game taken by the holder thereof. R.O. 1958, c. 50, s. 47.

REGISTERED GUIDING AREAS

Certificate of registration **57.** (1) The Director may upon application therefor issue a certificate of registration of a guiding area to an outfitter. R.O. 1958, c. 50, s. 48.

Right conferred by certificate of registration **58.** (1) Except as provided in subsection 23(2), a certificate of registration of a guiding area reserves to the person to whom the certificate was issued the sole and exclusive right and privilege of outfitting and guiding any person for the purpose of hunting big game within the area described in the certificate of registration.

Permission to guide outside guiding area (2) The Director may, upon request, permit an outfitter or guide in his service or employ the right and privilege of outfitting and guiding any person for the purpose of hunting big game within an area for which no certificate of registration has been issued. R.O. 1958, c. 50, s. 49; 1959 (1st) c. 3, s. 10.

One certificate only **59.** (1) No person shall hold more than one certificate of registration of a guiding area. R.O. 1958, c. 50, s. 50.

When certificate may be cancelled **60.** (1) The Director may cancel a certificate of registration of a guiding area where, in his opinion, the holder thereof, without reasonable excuse, does not actively engage

in business as an outfitter during the open season in any year that the certificate is in force. R.O. 1958, c. 50, s. 51.

61. (1) Unless sooner cancelled, every certificate of registration of a guiding area expires five years following the date of issue. R.O., 1958, c. 50, s. 52. Expiry date of certificate

62. (1) The holder of a certificate of registration of a guiding area may, within a period of sixty days preceding the date on which it expires or sixty days after that date, apply for a renewal, and if the Director is satisfied that the holder has complied with this Ordinance and the regulations, he is entitled to a renewal thereof for a further period of five years in priority over all other applicants. Only certain persons may hunt in trapping areas

(2) Where the holder of an expired certificate of registration of a guiding area fails to apply for renewal within the limits set in subsection (1), he shall have no priority over other applicants. R.O. 1958, c. 50, s. 53.

PART VI

REGISTERED TRAPPING AREAS

63. (1) The Director may, upon application therefor, issue a certificate of registration of a trapping area to the holder of a general hunting licence. Issue of a certificate of registration of trapping area

(2) A certificate of registration of a trapping area in that portion of the Territory lying north of sixty-five degrees thirty minutes north latitude may be granted only to a person who resided and hunted under licence in that part of the Territory in each of the three years immediately preceding the date of his application.

(3) Except with the permission of the Commissioner, no certificate of registration of a trapping area shall be issued to a person who holds a licence to trap in any other part of Canada. No certificate to persons licensed to trap elsewhere in Canada

(4) No person shall be granted more than one certificate of registration of a trapping area. R.O. 1958, c. 50, s. 54.

64. (1) A certificate of registration of a trapping area may be issued to a group of two or more persons if each of them is qualified to obtain a certificate of registration. Issue to group

In name of leader (2) The certificate of registration of the trapping area shall be issued in the name of the leader of the group.

Returns (3) The leader of the group holding a certificate of registration shall furnish such returns and information respecting wildlife and hunting and trapping operations as the Director may require. R.O. 1958. c. 50. s. 55.

Exclusive right to hunt fur-bearing animals **65.** (1) Except as provided in this Ordinance, a certificate of registration of a trapping area reserves to the holder thereof or, in the case of a certificate of registration issued to the leader of a group, to the persons of the group, the sole and exclusive right and privilege of hunting fur-bearing animals within the area described in the certificate of registration.

Not to hunt outside area without permission (2) A game guardian may, upon request, permit the holder of a certificate of registration of a trapping area or, in the case of a certificate of registration issued to the leader of a group, to the persons of the group, the right and privilege of hunting fur-bearing animals within an area for which no certificate of registration has been issued. R.O. 1958. c. 50. s. 56.

Only certain persons may hunt in trapping areas **66.** (1) Except as provided in section 45, no person shall, within a registered trapping area, hunt fur-bearing animals or set traps, snares or other trapping equipment or skin or prepare or assist in the skinning or preparation of pelts for sale, unless

- (a) he is the holder of, or a dependant of a person who is the holder of, a certificate of registration for that area ;
- (b) he is a member of a group of persons holding a certificate of registration for that trapping area or a dependant of such member ; or
- (c) he is employed with the consent of the Director by the holder of a certificate of registration of a trapping area to assist in hunting in that area, and is the holder of a general hunting licence ; but such consent may be issued only upon evidence satisfactory to the Director that the employer cannot obtain an adequate livelihood without assistance.

Assistant trapper's licence (2) The Director may, upon application therefor, issue an assistant trapper's licence to any person who is over the age of sixteen years and has resided continuously in the Territory for two years immediately prior to his application, and has written consent of the holder of the registered trapping area

on which he intends to trap. R.O. 1958, c. 50, s. 57; 1971 (1st) c. 23, s. 15.

67. (1) Where a holder of a certificate of registration of a trapping area discovers traps, snares or other trapping equipment set within the limits of the trapping area by any person not authorized to do so, he may remove them from the area and if he does so shall deliver them to a game guardian. R.O. 1958, c. 50, s. 58.

Holder may
remove other
traps

68. (1) The Director may cancel a certificate of registration where, in his opinion, the holder thereof, without reasonable excuse, does not actively engage in hunting fur-bearing animals on his trapping area during the open season in any year that the certificate is in force. R.O. 1958, c. 50, s. 59.

Cancellation
where holder
fails to trap

69. (1) Unless sooner cancelled every certificate of registration of a trapping area expires five years following the date of issue. R.O. 1958, c. 50, s. 60.

Expiration of
certificate

70. (1) The holder of a certificate of registration of a trapping area may, within a period of sixty days preceding the date on which it expires or sixty days after that date, apply for a renewal, and if the Director is satisfied that the holder has complied with this Ordinance and the regulations, he is entitled to a renewal thereof for a further period of five years in priority over all other applicants.

Time for renewal

(2) Where the holder of an expired certificate of registration of a trapping area fails to apply for renewal within the limits set in subsection (1), he shall have no priority over other applicants. R.O. 1958, c. 50, s. 61.

Loss of priority

71. (1) On or before the 30th day of June in any year, the holder of a certificate of registration of a trapping area and the holder of an assistant trapper's licence shall submit to a game guardian a true and complete report in prescribed form showing the number and kind of game taken by him in the trapping area during that licence year. R.O. 1958, c. 50, s. 62; 1971 (1st) c. 23, s. 16.

Annual reports

72. (1) Whenever required by a game guardian, every holder of a certificate of registration of a trapping area shall submit a report to the game guardian giving the number and location of beaver colonies in the area. R.O. 1958, c. 50, s. 63.

Reports on
beaver colonies

73. (1) The holder of a certificate of registration of a trapping area may remove, sell, transfer or assign any mov-

May dispose of
improvements

able improvements made or lawfully acquired by him on the trapping area. R.O. 1958, c. 50, s. 64.

PART VII

FUR FARMS AND LIVE GAME

Fur farm licence and private game farm licence

74. (1) The Director may, upon application therefor, issue a licence to any resident to operate a fur farm or private game farm.

Idem.

(2) No person shall operate a fur farm or private game farm without a licence authorizing him to do so. R.O. 1958, c. 50, s. 65; 1967 (1st) c. 11, s. 16.

Unauthorized entry forbidden

75. (1) No person other than a game guardian shall, without the consent of the owner of a fur farm or private game farm, enter upon such fur farm or private game farm or go within twenty-five yards of the pens or dens of game thereon if notices forbidding trespassing on the premises are posted upon such pens or dens and the words thereon are plainly visible from a distance of not less than twenty-five yards. R.O. 1958, c. 50, s. 66; 1967 (1st) c. 11, s. 16.

May kill dog terrifying captive game

76. (1) Where notices have been posted in accordance with section 74, the owner or caretaker of a fur farm or private game farm may kill any dog found terrifying captive game within twenty-five yards of their pens or dens. R.O. 1958, c. 50, s. 67; 1967 (1st) c. 11, s. 16.

Licence to take live animals

77. (1) The Director, upon application therefor, may issue a licence to take wild live animals for propagation, display or export.

Idem.

(2) No person shall take or keep wild live animals in captivity for propagation, display or export without first obtaining a licence pursuant to subsection (1). R.O. 1958, c. 50, s. 68; 1967 (1st) c. 11, s. 16; 1971 (1st) c. 23, s. 17.

Taking of wild animals

78. (1) Wild live animals, whether taken for propagation, display or export, shall be taken only during the period and in the numbers specified in the licence and by the use of box traps or other devices approved by the Director. R.O. 1958, c. 50, s. 69; 1967 (1st) c. 11, s. 16; 1971 (1st) c. 23, s. 18.

79. (1) Where live animals are shipped or transported every proper precaution shall be taken to prevent injury to the animals. Animals not to be injured in shipment

(2) The animals referred to in subsection (1) shall be properly fed and cared for and shall be shipped or transported in well ventilated crates maintained in a sanitary condition. R.O. 1958, c. 50, s. 70. Feeding, etc., of animals in shipment

80 (1) Every licence issued under section 77 shall, upon expiry, be returned to the Director together with an affidavit setting forth the numbers and kinds of animals taken under its authority. R.O. 1958, c. 50, s. 71; 1971 (1st) c. 23, s. 19. Return of licence

81. (1) No person shall import into the Territory Licence to import animals

(a) a fur-bearing animal, or

(b) an animal normally wild by nature and foreign to the Territory, without a licence from the Director authorizing such import.

(2) The Director shall not issue a licence under subsection (1) unless the applicant produces a certificate of health signed by a veterinarian in respect of the animal to be imported. R.O. 1958, c. 50, s. 72; 1967.(1st) c. 11, s. 17. Certificate of health

PART VIII

GAME SANCTUARIES AND PRESERVES

82. (1) Each area described in Schedule I is a game preserve and shall be known by the name immediately preceding its description in that Schedule. Game preserves

(2) Except as provided in subsection (3), no person other than an Indian or Eskimo shall hunt or trade and traffic in game within the boundaries of a game preserve. Prohibition

(3) Where a person enters a game preserve for the purpose of prospecting for minerals he may, if he is licensed to hunt game birds, take game birds during the open season for such birds. R.O. 1958, c. 50, s. 73. Exception

83. (1) Each area described in Schedule II is a game sanctuary and shall be known by the name immediately preceding its description in that Schedule. Game sanctuaries

Prohibition (2) Except as provided in section 45, no person shall hunt game within a game sanctuary. R.O. 1958, c. 50, s. 74.

PART IX

TRADING AND TRAFFICKING IN GAME

Trading post or outpost licences **84.** (1) No person shall establish, operate or maintain in the Territory an establishment in which the business of trading or trafficking in game is carried on unless he holds a trading post licence issued by the Director with respect to that establishment.

Separate licences for each establishment (2) A separate licence shall be obtained in respect of each trading establishment.

Outpost licence (3) Where the trading establishment is to be operated less than eight months in a year, an outpost licence issued by the Director shall be obtained.

Trading post licence (4) Where the trading establishment is to be operated eight or more months in a year, a trading post licence issued by the Director shall be obtained.

Outpost licence only to holder of trading post licence (5) No outpost licence shall be issued to a person unless he holds a trading post licence.

Trading post to be operated at least eight months (6) A trading post in respect of which a licence is issued shall be operated for at least eight months of each licence year.

Outpost to be operated at least three months (7) An outpost in respect of which a licence is issued shall be operated for at least three months of each licence year.

Not transferable (8) A licence for a trading post or an outpost is not transferable.

Duration of licence (9) A licence issued under this section remains in effect until cancelled by the Director or surrendered. R.O. 1958, c. 50, s. 75.

Licence to sell fur-bearing animals **85.** (1) Except as provided in section 87, no person shall, either by himself, his clerk, servant or agent, buy, or sell, deal, exchange, barter, solicit or traffic in the skin, pelt or part thereof of any fur-bearing animal or conduct a sale or purchase of the skin, pelt or part thereof without first having

obtained a licence from the Director authorizing him to do so.

- (2) A licence to trade or traffic in game may be transferred
 - (a) upon application in writing to the Director by the holder thereof, and
 - (b) upon payment of any increase in licence fee.

Transfer of licence

(3) A licence to trade or traffic in game authorizes the person to whom it is issued to trade or traffic only at the trading post or outpost described in the licence.

Right to trade limited to posts described in licence

(4) A person employed to assist the holder of a licence to trade or traffic in game does not require a licence unless he engages in trading or trafficking in game on his own account. R.O. 1958, c. 50, s. 76.

Holder's assistant does not require licence

86. (1) Every holder of a fur trading licence shall

Duties of trader

- (a) keep a true record of all furs purchased or sold by him, such record to show
 - (i) date of purchase or sale,
 - (ii) name and address of vendor or purchaser,
 - (iii) licence number of the trapper, and
 - (iv) a sufficient description of the furs purchased or sold;
- (b) forward an annual return in a prescribed form to the Director within fifteen days after the end of each licence year; and
- (c) whenever so required by the Director in writing produce his records and books of account for examination by a game guardian. R.O. 1958, c. 50, s. 77.

87. (1) A resident may purchase without a licence, skins or pelts of a fur-bearing animal for use by himself and his family.

Unlicensed resident may purchase for personal use

(2) A person who is not a resident of the Territory may purchase without a licence, skins or pelts of a fur-bearing animal for his own use, but not for barter or sale, the total value of which does not exceed two hundred dollars in any licence year.

Unlicensed visitor may purchase limited value for personal use

(3) The Director may issue a licence to a person who is the holder of a licence in the Territory to do business as a retail merchant or lodge keeper, to buy, sell or traffic in the skins, pelts or parts thereof of any fur-bearing animals endorsed on the licence by the Director.

(4) A licence issued pursuant to subsection (3) authorizes the licensee, his employee or agent to buy, sell or traffic in the skins, pelts or parts thereof of the fur-bearing animals endorsed on the licence but only at the place of business described therein. R.O. 1958, c. 50, s. 78; 1961 (2nd) c. 10, s. 1; 1971 (1st) c. 23, s. 20; 1971 (3rd) c. 5, s. 1.

Permit for
wildlife photog-
raphy

88. (1) The Director may, upon application, issue a permit to any person for the purpose of carrying on the business of wildlife photography.

(2) No person shall carry on the business of wildlife photography without first obtaining a permit therefor from the Director and upon payment of the prescribed fee. 1971 (1st) c. 23, s. 21.

PART X

POWERS OF THE COMMISSIONER

Powers

- 89.** (1) The Commissioner may
- (a) prescribe forms of licences, applications and certificates of registration and such other forms as may be required for the purposes of this Ordinance or the regulations;
 - (b) cancel, suspend or refuse to issue or renew any licence or certificate of registration for any cause that to him seems sufficient;
 - (c) reinstate a cancelled or suspended licence or certificate of registration upon such terms as he may deem proper;
 - (d) as a condition precedent to the issue or reinstatement of any licence or certificate of registration in any case or class of cases, require the applicant therefor to furnish a bond or other form of security as he may deem necessary to secure the due observance of this Ordinance;
 - (e) appoint honorary game guardians;
 - (f) fix or vary at any time the boundaries of any trapping or guiding area in respect of which a certificate of registration has been issued;
 - (g) permit the meat of game to be had in possession and served
 - (i) in schools, hospitals or hostels in case of need, and

- (ii) in hotels, restaurants or dining rooms of clubs or other organizations on special occasions;
- (h) grant, without fee, a special licence to enable a guest of the Territory to hunt therein;
- (i) notwithstanding anything herein, authorize a game guardian or any person under the supervision of a game guardian, to hunt game at any time in any part of the Territory and by any method deemed necessary by the Commissioner to carry out an experiment or investigation in connection with the conservation, development or utilization of the wildlife resources including the control of predatory animals; and
- (j) on behalf of the Territory, enter into agreements with Canada in connection with the development of fur rehabilitation blocks or registered trapping areas where such development will be beneficial to Indians or Eskimos. R.O. 1958, c. 50, s. 79.

90. (1) The Commissioner may make regulation

- (a) fixing the boundaries of the areas within which game or any specified species of game may or may not be hunted or killed.
- (b) prescribing the number of any special species of game and the sex thereof that may be hunted and killed;
- (c) fixing the periods of open seasons;
- (d) respecting that has been issued to a person who enlists in the armed forces or who becomes hospitalized or otherwise incapacitated, and respecting the enjoyment by the dependants of any such person of any of the rights of that person thereunder during the period of his absence in the armed forces or during the period of his hospitalization or incapacity, notwithstanding anything else herein;
- (e) respecting the sealing and marking of any specified species of game, the manner and method of such sealing or marking and, generally, the use of seals and marks for any such purpose;
- (f) respecting the operation of private game farms; and
- (g) respecting any other matter the regulation of which the Commissioner deems necessary or advisable in order to carry out effectively the purposes and provisions of this Ordinance.

Regulations of
Commissioner

(2) The Commissioner may fix the fees to be paid in respect of any licence or permit or any service pursuant to this Ordinance.

Commissioner
may fix fees

Tabling of regulations

(3) The Commissioner shall cause regulations made pursuant to this Ordinance to be tabled at the session of Council next following the making of such regulations. R.O. 1958, c. 50, s. 80; 1967 (1st) c. 11, s. 18; 1969 (2nd) c. 9, s. 1; 1971 (1st) c. 23, s. 22 (1)(2).

PART XI

ADMINISTRATION AND ENFORCEMENT

OFFICERS

Appointment of Director

91. (1) The Commissioner may appoint

(a) an officer to be called the Director, who shall supervise, under the direction of the Commissioner, the administration of this Ordinance;

Game guardians

(b) one or more persons to act as game guardians for a period of one year from the date of the appointment who shall, under the direction of the Director, perform such duties as may be assigned by the Director; and

(c) one or more persons to act as honorary game guardians. R.O. 1958, c. 50, s. 81; 1959 (1st) c. 3, s. 12; 1967 (1st) c. 3, s. 12.

Game guardians

92. (1) The person who from time to time holds office as Director is a game guardian.

Ex officio deputy game guardians

(2) Every person who, from time to time, is

(a) a member of the Royal Canadian Mounted Police;

(b) an outfitter or chief guide while engaged in outfitting or guiding hunters in the Territory;

(c) a forest officer appointed under the *Forest Protection Ordinance*; or

(d) a fishery officer appointed under the *Fisheries Act* of Canada is a deputy game guardian. R.O. 1958, c. 50, s. 82; 1967 (1st) c. 11, s. 20.

Oath

93. (1) A game guardian and an honorary game guardian appointed pursuant to this Ordinance shall, before acting as such, take and subscribe to the following oath:

"I, _____ of _____ that to the best of my judgment I will faithfully, honestly and impartially execute and perform the office and duty of such game guardian according to the true intent and meaning of the *Game Ordinance*. So help me God." R.O. 1958, c. 50, s. 83.

94. (1) Every game guardian, deputy game guardian and honorary game guardian has the powers of a commissioner for taking affidavits in and for the Territory in relation to all matters coming within the provisions of this Ordinance. Guardians to be commissioners of oaths

(2) Every game guardian and deputy game guardian has the authority to enforce and carry out the provisions of this Ordinance and the regulations. Authority of deputy game guardian

(3) Every honorary game guardian has the authority of a game guardian to the extent prescribed by the Commissioner. R. O. 1958, c. 50, s. 84; 1967 (1st) c. 11, s. 21. Authority of honorary game guardian

95. (1) The Director has power to settle any dispute in connection with hunting or trapping operations. Power to settle disputes

(2) An appeal lies from the decision of the Director to a magistrate. Appeal

(3) Notice of appeal shall be given within thirty days from the day upon which the decision appealed from is pronounced or given, or within such further time as the Director may allow, and, after service upon the opposite party, shall be filed with the Director. Notice of appeal

(4) At the time of filing notice of appeal, the appellant shall deposit with the Director such sum of money or security therefor as security for costs of the appeal as the Director may consider necessary. Deposit of security for costs

(5) Upon receipt of notice of appeal and deposit of security for costs, if any, the Director shall forthwith transfer the complaint, evidence and other proceedings to a magistrate. Transfer of evidence, etc., to police magistrate

(6) The magistrate shall fix the time of hearing at as early a date as may, in his opinion, be convenient to all parties. Hearing

(7) An appeal from the decision of a magistrate lies to a judge. R.O. 1958, c. 50, s. 85. Appeal lies to judge

ARREST AND SEARCH

96. (1) Any game guardian or deputy game guardian who finds a person committing an offence against this Ordinance or the regulations may arrest that person without warrant. R.O. 1958, c. 50, s. 86; 1967 (1st) c. 11, s. 22. Arrest without warrant

97. (1) A game guardian or deputy game guardian who finds a person during a closed season on other than his own property carrying a gun as if it were intended for use may, Search without warrant

without warrant, search the clothing, vehicle, boat, aeroplane or other conveyance and the camp of such person. 1967 (1st) c. 11, s. 22.

Idem. **98.** (1) A game guardian or deputy game guardian who has reasonable grounds to believe that an offence has been committed under this Ordinance or the regulations may, without warrant, search any person upon whom, and any vehicle, boat or other conveyance upon or in which, he believes evidence of such offence may be found. 1967 (1st) c. 11, s. 22.

Search vehicle **99.** (1) Any person who is in charge of or operating a vehicle, upon being requested or signalled to stop by a game guardian or deputy game guardian, shall

- (a) bring or cause his vehicle to be brought to a stop,
- (b) permit such guardian to search the vehicle, and
- (c) furnish such guardian with any information he may require in the fulfilment of his duties. 1967 (1st) c. 11, s. 22.

Information and search warrant **100.** (1) Where a game guardian or deputy game guardian shows a justice of the peace that he has reasonable cause to suspect that game has been taken in violation of this Ordinance or the regulations and is concealed in a dwelling, house, building, camp, garden, yard or other place, the justice of the peace may issue a warrant authorizing and requiring such guardian to search the place and, if the game is found therein, to seize and bring it before him or before some other justice of the peace.

Form (2) Any information or search warrant issued under subsection (1) shall be in the prescribed form. 1967 (1st) c. 11, s. 22.

SEIZURE AND FORFEITURE

Seizure of game **101.** (1) All game taken, caught, killed or had in possession in violation of this Ordinance and all nests, eggs or parts thereof taken or had in possession in violation of this Ordinance, together with all game that is legally taken, caught, killed or had in possession and is intermixed therewith, shall, upon being found by a game guardian or deputy game guardian, be forthwith seized by him and taken before a justice of the peace.

Seizure of equipment (2) All guns, ammunition, traps, boats, skiffs, canoes, punts and vessels of every description, horses, dogs, wagons, sleighs, motor vehicles and other outfits, decoys and appliances and

materials of every kind used in violation of or for the purpose of violating this Ordinance may, upon being found by a game guardian or deputy game guardian, be forthwith seized by him and, if seized, shall be taken before a justice of the peace. R.O. 1958, c. 50, s. 87; 1967 (1st) c. 11, s. 22.

102. (1) Where a person refuses to submit any paper, records, documents or books of account to a game guardian or deputy game guardian for inspection as required under this Ordinance, such guardian, upon obtaining a warrant therefor, may seize such paper, records, documents or books of account. R.O. 1958, c. 50, s. 88; 1967 (1st) c. 11, s. 22.

Seizure of records and documents

103. (1) Upon the conviction of a person for an offence under this Ordinance or the regulations, the justice before whom the case was heard may declare the forfeiture to the Territory of anything seized under section 100 in connection with the conviction.

Forfeiture upon conviction

(2) The Commissioner may dispose of anything declared forfeited under this section in any way he deems fit and the proceeds thereof shall be deposited to the credit of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 50, s. 89.

Proceeds to Y.C.R.F.

OFFENCES AND PENALTIES

104.(1) Every person who violates a provision of this Ordinance or the regulations commits an offence and in addition to any other penalty is liable on 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. R.O. 1958, c. 50, s. 90.

General penalty

ONUS OF PROOF

105. (1) Whenever by this Ordinance it is made an offence to do an act without holding a licence or certificate of registration therefor, the onus in any prosecution shall be upon the person charged to prove that he held a licence or certificate of registration as required by this Ordinance.

Onus on accused to show he held licence

(2) In any prosecution under this Ordinance, the onus of proof as to his being a resident shall be upon the defendant.

Onus as to residence

(3) In any prosecution under this Ordinance, the onus of proving that the game taken or killed was necessary to prevent starvation of himself or his family shall be upon the person charged with having killed or taken such game in violation of this Ordinance.

Onus as to taking to prevent starvation

Onus as to
possession

(4) The possession of game or the nests or eggs of birds by any person within a game sanctuary shall be *prima facie* evidence of the guilt of such person and the onus of proof to the contrary shall rest upon him. R.O. 1958, c. 50, s. 91.

MISCELLANEOUS

Prosecution
commenced
within one year

106. (1) Prosecution for any offence committed against this Ordinance may be commenced at any time within one year from the time when such offence was committed. R.O. 1958, c. 50, s. 92.

Moneys deposit-
ed in Y.C.R.F.

107. All moneys received from fees and charges made under the authority of this Ordinance and all fines resulting from convictions under this Ordinance shall be deposited to the credit of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 50, s. 93.

SCHEDULE I
DESCRIPTION OF GAME PRESERVE

PEEL RIVER PRESERVE

Comprising all that tract of land which may be described as follows:

Commencing at the most easterly intersection of the 66th Parallel of north latitude with the boundary between the Northwest Territories and the Yukon Territory; thence westerly and northerly, following the said boundary to its intersection with the Peel River; thence southerly following the right bank of Peel River to its confluence with the Snake River; thence upstream following the right bank of the Snake River to its intersection with latitude 65 degrees 30 minutes North, a distance of approximately sixty miles; thence due east to the boundary between the Northwest Territories and the Yukon Territory; thence northerly along the said boundary to the point of commencement.

R.O. 1958, c. 50, Sched. B.

SCHEDULE II

DESCRIPTION OF GAME SANCTUARIES

MCARTHUR GAME SANCTUARY

Comprising all that portion of the Yukon Territory lying within the boundaries described as follows:

Commencing at one of the heads of Avalanche Creek at approximately 63 degrees, 16 minutes 30 seconds north latitude, 135 degree 22 minutes west longitude; thence downstream along the left bank of Avalanche Creek to its junction with Nogold Creek; thence downstream along the left bank of Nogold Creek to its junction with an unnamed tributary at approximately 63 degrees 19 minutes 30 seconds north latitude and 135 degrees 42 minutes west longitude; thence southwesterly along the right bank of the said tributary to its head; thence southwesterly in a straight line to the eastern extremity of an unnamed lake on North Crooked Creek at approximately 63 degrees 16 minutes 30 seconds north latitude and 135 degrees 49 minutes west longitude; thence along the left bank of North Crooked Creek to its junction with Crooked Creek; thence upstream along the right bank of Crooked Creek to its junction with South Crooked Creek; thence upstream along the right bank of South Crooked Creek to its junction with Woodburn Creek; thence upstream along the right bank of Woodburn Creek to Woodburn Lake; thence along the north shore of Woodburn Lake to its southeastern extremity; thence easterly in a straight line across a height of land to the head of an unnamed tributary of Little Kalzas River at approximately 63 degrees 03 minutes north latitude and 135 degrees 54 minutes west longitude; thence downstream along the left bank of said tributary to its junction with Little Kalzas River; thence downstream along the left bank of Little Kalzas River via the southwest shore of Little Kalzas Lake to its junction with Kalzas River; thence upstream along the right bank of Kalzas River to its intersection with 135 degrees 05 minutes west longitude; thence due north along the said 135 degrees 05 minutes west longitude a distance of four miles, more or less, to its intersection with the right bank of Kalzas River; thence upstream along the right bank of Kalzas River to a fork at approximately 63 degrees 11 minutes 30 seconds north latitude, 135 degrees 10 minutes west longitude; thence upstream along the right bank of the northwesterly fork to its head at approximately 63 degrees 15 minutes 30 seconds north latitude, 135 degrees 18 minutes west longitude; thence northwesterly in a straight line a distance of two and one-half miles, more or less, to the point of commencement.

R.O. 1958, c. 50, Sched. C.

KLUANE GAME SANCTUARY

Comprising all that portion of the Yukon Territory lying within the boundaries described as follows:

Commencing at the point of intersection of the International Boundary between Yukon Territory and the State of Alaska with the middle of the main channel of White River in approximate north latitude 61 degrees 45 minutes; thence south and easterly following the said International Boundary to its intersection with the northern boundary of the Province of British Columbia; thence easterly following the said northern boundary of British Columbia to its intersection with the western boundary of the right of way of the Haines Highway; thence north and westerly following the said westerly and southerly boundary of the highway right of way to its intersection with the south boundary of the Alaska Highway; thence northerly and westerly following the southerly and westerly boundary of the right of way of the Alaska Highway to the middle of the main channel of the White River; thence southwesterly along the middle of said channel to the point of commencement, the said described land containing an area of approximately ten thousand one hundred and thirty (10,130) square miles, more or less.

CHAPTER G-2

GAOLS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Gaols Ordinance*. Short title
1966 (2nd) c. 2, s. 1.

GAOL DESIGNATED

2. (1) Every building and other enclosure on the land described in Schedule I is designated as a prison, gaol or lock-up for the confinement of persons charged with the commission of any offence under a statute, ordinance or other law in force in the Territory or sentenced thereunder to a term of imprisonment not exceeding two years less one day. Land in Schedule to be gaol
1966 (2nd) c. 2, s. 2; 1968 (4th) c. 9, s. 1.

SCHEDULE I

3. (1) The whole of Lot 509 in Group 804 in the Yukon Territory according to a plan of survey numbered in the Canada Lands Surveys Records of the Department of Energy, Mines and Resources at Ottawa under number 53002.
1966 (2nd) c. 2, s. 2.

CHAPTER G-3

GARAGE KEEPERS' LIENS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Garage Keepers' Lien Ordinance*. R.O. 1958, c. 51, s. 1.

INTERPRETATION

2. (1) In this Ordinance

Definitions

"garage" means any building or part of a building in or in connection with which services are rendered upon motor vehicles in the ordinary course of business;

"garage"

"garage keeper" means any person who, in the ordinary course of business and as his principal employment or one of his principal employments, renders services upon motor vehicles in a garage for a charge, price or consideration;

"garage keeper"

"motor vehicle" means a vehicle propelled by any power other than muscular power, but does not include an aircraft or a vehicle that runs only on tracks or rails;

"motor vehicle"

"services" means repairs to a motor vehicle by labour or by supplying parts thereof or accessories thereto. R.O. 1958, c. 51, s. 2.

"services"

CREATION, EFFECT AND REGISTRATION OF LIEN

3. (1) In addition to any other remedy that a garage keeper has for recovering money for services rendered by him, he has a lien on every motor vehicle and on any part, accessory or equipment pertaining thereto for services for the amount of the charge, price or consideration therefor.

Garage keeper's lien

(2) Subject to section 4, actual and continued possession of the motor vehicle or part, accessory or equipment is essential to the existence of a lien under this Ordinance.

Requirement as to actual and continued possession

(3) Section 31 of the *Mechanics Lien Ordinance* does not apply to a lienholder under this Ordinance. R.O. 1958, c. 51, s. 3.

Non-application of the *Mechanics Lien Ordinance*, section 31

4. (1) In lieu of remaining in actual and continued possession as provided by subsection 3(2), a garage keeper may, by

Garage keeper may file lien

himself or his agent, within fifteen days of the day on which the service for which a lien exists was completed, file in the office of the registration clerk of the registration district established under the *Bills of Sale Ordinance* in which the service was performed a claim of lien, in Form A of Schedule I, and an affidavit verifying the claim, in Form B of Schedule I.

Registration of claim for lien and effect thereof

(2) A garage keeper or his agent may file a copy of the claim and affidavit filed under subsection (1) in the office of the registration clerk of any other registration district established under the *Bills of Sale Ordinance*.

Period during which lien continues

(3) If a claim is filed pursuant to subsection (1) within fifteen days after the date upon which the services were completed, the garage keeper has a lien for services on the motor vehicle for a period of one hundred and eighty days from the date of filing; on the expiration of that period the lien ceases to exist unless within that period proceedings have been commenced under this Ordinance to enforce it. R.O. 1958, c. 51, s. 4.

Priority of lien of vendor

5. (1) Where the charge, price or consideration for services to a motor vehicle by a garage keeper exceeds one hundred dollars in value and the vendor of the motor vehicle or his assignee has a lien upon the motor vehicle for all or part of the purchase price, the lien has priority over a lien filed under section 4, unless such vendor or assignee gives the garage keeper written authority to supply the services.

Priority of encumbrance required before filing

(2) Where a garage keeper has lost his lien under section 3 because the motor vehicle in respect of which he has the lien has gone out of his possession and before he files a claim of lien under section 4 another person in good faith and without notice acquires an interest in, or a charge, lien or other encumbrance on the motor vehicle, such interest, charge, lien or other encumbrance has priority over a lien under section 4.

Priority among liens filed

(3) Where more than one person has a lien under this Ordinance upon the same motor vehicle, the lien of the person whose claim of lien is filed earlier in time has priority over that of a person whose claim of lien is filed later in time. R.O. 1958, c. 51, s. 5.

Garage keeper may issue authorization to seize

6. (1) At any time during the continuance of a lien on a motor vehicle created by section 4, the garage keeper may authorize the sheriff in writing to seize the motor vehicle and return it to the garage keeper.

(2) After receiving the authorization mentioned in subsection (1), the sheriff shall seize or cause to be seized the motor vehicle, if he finds it within one hundred and eighty days, and deliver it to the garage keeper or his agent upon receiving the amount of the fees payable in respect of the authorization and seizure.

Sheriff to seize

(3) A judge may prescribe fees that may be charged in respect of an authorization under this section and any seizure thereunder or any matter or thing incidental thereto.

Judge may prescribe fees

(4) Where one of several lienholders under this Ordinance causes a seizure to be made of a motor vehicle, he shall be deemed to have made the seizure on behalf of all persons who have a subsisting lien on the motor vehicle. R.O. 1958, c. 51, s. 6.

Seizure deemed to be on behalf of all lienholders

7. (1) Upon a motor vehicle being delivered to him after seizure pursuant to section 6, a garage keeper has the same rights and remedies for enforcing his lien against the motor vehicle as if he then had a possessory lien for the same amount, and may enforce the lien in the manner provided in this Ordinance. R.O. 1958, c. 51, s. 7.

Rights of garage keeper on delivery after seizure

ENFORCEMENT

8. (1) Where the amount payable to the garage keeper for services on a motor vehicle has not been paid

When garage keeper may sell

- (a) upon the expiration of one hundred and eighty days from the date upon which the services were completed where the garage keeper retains possession of the motor vehicle, or
- (b) upon the expiration of the period of one hundred and eighty days mentioned in subsection 4(3) or on the expiration of sixty days from the date of delivery of the motor vehicle to the garage keeper under section 6, whichever is later,

the garage keeper may sell the motor vehicle or any part thereof at public auction. R.O. 1958, c. 51, s. 8.

9. (1) Before the sale is held under section 8, a garage keeper shall publish in the *Yukon Gazette* and post and keep posted during a period of at least two weeks, on the outside of a front door of his garage a notice of such intended sale that sets out

Notice of sale

- (a) the name so far as known of the owner of the motor vehicle to be sold;

- (b) a general description of the motor vehicle, including its engine number and serial number ;
- (c) the time and place of sale ; and
- (d) the name of the auctioneer. R.O. 1958, c. 51, s. 9.

Application of proceeds

10. (1) The proceeds of a sale under section 8 shall be applied in payment of the following charges in the order set out :

- (a) the costs of the seizure of the vehicle ;
- (b) the costs of advertising the sale, the auctioneer's fees and other reasonable costs of the sale ;
- (c) any claim, lien, interest or encumbrance that, under this Ordinance, has priority over the lien in respect of which the sale was made in accordance with their priority ;
- (d) the amount payable to the garage keeper for services ; and
- (e) the claim of any other lienholder ;

and the surplus, if any, shall be paid on application to the person entitled thereto.

If surplus not claimed within one year it becomes part of Y.C.R.F.

(2) If a person entitled to the surplus of a sale under section 8 does not apply for it within one month of the day of the sale, such surplus shall be paid to the Territorial Treasurer who shall keep it in a special trust account for one year, after which, if such person does not claim it, it shall be paid into and form part of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 51, s. 10.

GENERAL

Penalty

11. (1) Subject to subsection (2), no garage keeper shall operate, or permit to be operated, outside his premises, any motor vehicle, or use, or permit to be used, any part of a motor vehicle left with him for service or held by him.

Saving

(2) Notwithstanding subsection (1), a motor vehicle left with a garage keeper for the performance of services thereon or held by him pursuant to this Ordinance may be operated for the purpose of testing it after repairs have been made or parts supplied, or for the purpose of transferring it to the place where it is to be sold pursuant to this Ordinance.

(3) A garage keeper who violates subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 51, s. 11.

12. (1) Every garage keeper shall keep a copy of this Ordinance conspicuously posted in his office and in at least two other conspicuous places in his garage, and unless he complies with this action he is not entitled to the benefits of this Ordinance. R.O. 1958, c. 51, s. 12.

Garage keeper to
post copy of
Ordinance

SCHEDULE I

FORM A

CLAIM OF LIEN

(Section 4)

(Name of claimant) of (address of claimant) carrying on the business of a garage keeper at (give address of garage) pursuant to the Garage Keepers Ordinance claims a lien upon a certain vehicle (set out licence number, if any, of the vehicle and the make, style, year and model thereof and the serial number of the vehicle and its engine) in respect of (insert particulars of the services rendered) for (state name and address) and which were completed on (state date of completion of services).

The amount for which the lien is claimed is the sum of..... dollars.

The address for service of the claimant is..... in the Yukon Territory.

Dated at....., this.....day of....., 19.....

..... Signature of claimant or agent

R.O. 1958, c. 51, Sched.

FORM B

AFFIDAVIT VERIFYING CLAIM

(Section 4)

Canada
Yukon Territory

To Wit:

I, (*name, address and occupation of person by whom the claim of lien is signed*) make oath and say that the statements set out in the above (*or annexed*) claim are true and that I have full knowledge of such facts.

Sworn before me at

.....
 in the Yukon Territory, this
*day*.....
 of.....,
 19.....

.....
*A Commissioner for taking affidavits
for the Yukon Territory*

R.O. 1958, c. 51, Sched.

CHAPTER G-4

GARNISHEE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Garnishee Ordinance*. R.O. 1958, c. 52, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
 "court" means "court"
 (a) in the case of a judgment, order or action in the Territorial Court, the Territorial Court, and
 (b) in the case of a judgment, order or action in the Magistrate's Court, the Magistrate's Court ;
 "garnishee" means a person against whom a garnishee summons is directed under this Ordinance. R.O. 1958, c. 52, s. 2. "garnishee"

GARNISHEE SUMMONS AND SERVICE

3. (1) Upon receiving an affidavit described in subsection (2) from a person who has obtained a judgment or order for the recovery or payment of money or who is a plaintiff in an action for debt or liquidated demand or the solicitor or agent of such a person, the clerk of the court may issue a garnishee summons, in Form A of Schedule I, with such variations as circumstances may require, directed to one or more persons alleged to be indebted, either jointly or severally, to the defendant or judgment debtor. Issue of summons

(2) The affidavit mentioned in subsection (1) shall Nature of affidavit
 (a) show the nature and amount of the claim against the defendant or the amount remaining due and unsatisfied under the judgment ;
 (b) state positively that the defendant or judgment debtor is indebted to the plaintiff or judgment creditor; and
 (c) state that, to the best of the deponent's information and belief, the proposed garnishee, naming him, is indebted to the defendant or judgment debtor. R.O. 1958, c. 52, s. 3.

- Service binds debts **4.** (1) Service of a garnishee summons on a garnishee binds any debt due or accruing due from the garnishee to the defendant or judgment debtor.
- Manner of service (2) A garnishee summons may be served in any way that a writ of summons may be served.
- Service on defendant or judgment debtor (3) A copy of the garnishee summons shall be served on the defendant or judgment debtor or his solicitor within twenty days after service on the garnishee, or within such further time as the court or a judge may, *ex parte*, order. R.O. 1958, c. 52, s. 4.
- Money payable out of Territorial funds **5.** (1) Any money due or accruing due to a defendant or judgment creditor that is payable out of public funds of the Territory may be garnisheed under this Ordinance by serving a garnishee summons upon the Territorial Treasurer. R.O. 1958, c. 52, s. 5.

SETTING ASIDE THE GARNISHEE SUMMONS

- Application to set aside garnishee **6.** (1) The defendant or judgment debtor or the garnishee or any person claiming to be interested in any money attached under a garnishee summons issued under this Ordinance, may apply to a judge in chambers to set aside the garnishee summons. R.O. 1958, c. 52, s. 6.

DISPUTE BY GARNISHEE

- Dispute by garnishee **7.** (1) Where a garnishee disputes his liability or claims that the debt sought to be attached is not attachable, he shall, within the time specified in the garnishee summons or such further time as the court may allow, file with the clerk of the court a statement showing the grounds on which he disputes liability or claims that the debt is not attachable.
- Trial of issue (2) When the statement mentioned in subsection (1) has been filed, the court may, on application of the plaintiff or any other person interested, on two days' notice given to the garnishee,
 - (a) fix a time and place for summarily determining the question of liability or whether the debt is attachable, or
 - (b) order that any issue or question necessary for determining such liability or whether the debt is attachable be tried and determined in any manner in which an issue or question in any action may be tried or determined.

and may direct who shall be the parties to such issue or question.

(3) Any determination under this section becomes a judgment of the court and may be enforced as such. R.O. 1958, c. 52, s. 7. Determination enforceable as judgment

8. (1) Where the plaintiff or judgment creditor does not proceed to have the question of liability determined as provided in section 7 within two months after the garnishee has entered the statement referred to in that section, the garnishee may apply for an order to set aside the garnishee summons. R.O. 1958, c. 52, s. 8. Delay by plaintiff

PAYMENT INTO AND OUT OF COURT

9. (1) A garnishee who pays money into court pursuant to a garnishee summons is entitled to deduct from the amount owing by him any disbursement necessarily made by him. R.O. 1958, c. 52, s. 9. Garnishee's costs

10. (1) Money paid into court by a garnishee may be paid out to a judgment creditor or his solicitor without any order of the court where, Order for payment to plaintiff

- (a) not less than ten days notice of the intended payment out is given to the defendant or judgment debtor and the garnishee;
- (b) when a garnishee summons issues prior to judgment, until the plaintiff has recovered judgment against the defendant; or
- (c) the judgment was obtained by default and three months have expired from the day upon which the money was paid into court.

(2) With the written consent of the parties interested or by order of the court made *ex-parte* or otherwise or on such notice as the court directs money paid into court pursuant to a garnishee summons may be paid out at any time after it has been paid into court. R.O. 1958, c. 52, s. 10; 1969 (2nd) c. 2, s. 1.

DETERMINING THE INTEREST OF THIRD PERSONS

11. (1) When it is suggested by the garnishee or any person claiming to be interested that the debt attached belongs to a third person or that a third person has a lien or charge upon it, the court may order the third person or any other person to appear and state the nature and particulars of his claim. R.O. 1958, c. 52, s. 11. Suggestion of claim of third party

Procedure in determining claim

12. (1) After hearing the allegations of a third person appearing pursuant to an order made under section 11 and of any other person whom by the same or any subsequent order the court may require to appear, or in case of a third person not appearing when ordered, the court may order execution to issue to levy the amount due from the garnishee or any issue or question to be tried or determined in accordance with the provisions of this Ordinance, and may bar the claim of the third person or make such other order, upon such terms as the court thinks fit, with respect to the lien or charge, if any, of the third person and to costs as the court thinks fit. R.O. 1958, c. 52, s. 12.

JUDGMENT AND EXECUTION

Default by garnishee

13. (1) Where a garnishee does not pay into court the amount due from him to the defendant or judgment debtor or an amount equal to the claim or judgment and costs and does not dispute the debt claimed to be due from him to the debtor, the court may, after judgment has been entered against the defendant or at once when the garnishee summons is founded on a judgment already recovered, order that judgment be entered against the garnishee and that execution issue to levy the amount due from the garnishee or so much thereof as is sufficient to satisfy the judgment or order, together with the costs of the garnishee proceedings. R.O. 1958, c. 52, s. 13.

Garnishee discharged by payment or levy

14. (1) Payment made by or execution levied upon the garnishee shall be a valid discharge to him against the defendant or judgment debtor to the amount paid or levied even though such proceedings may be set aside or the judgment or order reversed. R.O. 1958, c. 52, s. 14.

Costs in garnishee proceedings

15. (1) Subject to this section, the costs of any application for garnishee summons and any proceedings arising from or incidental to such application shall be in the discretion of the court.

Garnishee's costs

(2) A garnishee is not liable for the costs of proceedings under this Ordinance except insofar as occasioned by setting up a defence that, in the opinion of the court, he knew or should have known was untenable.

Plaintiff's or judgment creditor's costs

(3) The plaintiff or judgment creditor is entitled, unless the court otherwise orders, to have the costs of proceedings taken by him under this Ordinance taxed against the defendant or judgment debtor and to add the amount of such costs to the debt or judgment. R.O. 1958, c. 52, s. 15.

16. (1) No execution shall issue to levy any money owing from a garnishee until and so far only as such money has become fully due. R.O. 1958, c. 52, s. 16.

Execution stayed till money due

ATTACHMENT OF WAGES OR SALARY

17. (1) Except as herein provided no debt due or accruing due to an employee in respect of wages or salary is liable to attachment under this Ordinance unless such debt exceeds the sum of six dollars per day for the period in respect of which the wages or salary are owing on the day the garnishee summons is served on the garnishee, and then only to the extent of the excess.

Exemption from attachment

(2) Where the defendant or judgment debtor maintains dependants residing in the Yukon Territory he may, within twenty days after the service upon him of the garnishee summons, apply in Form B of Schedule I to the court for an order at the discretion of the court increasing such sum of six dollars to a sum not being greater than ten dollars per day and shall file in support thereof an affidavit of circumstance.

Additional relief

(3) The court shall, upon being satisfied that the affidavit of circumstance discloses reasonable grounds for the application, appoint a day to consider the application and examine the applicant as to his circumstances.

Appointment of day

(4) Notice in Form C of Schedule I of such appointment shall be served on the plaintiff or judgment creditor or his solicitor in any way that a writ of summons may be served at least two clear days before the appointed day and served therewith shall be a copy of the application and affidavit of circumstance.

Notice

(5) The applicant must appear in person on the day appointed and in default no relief shall be granted.

(6) No appeal shall be taken from any refusal to appoint a day to consider the application or any order made by the court.

(7) Where the plaintiff or judgment creditor claims that an employee, in addition to a fixed money wage or salary is given board or lodging or the use of a house, or any other thing of value, in part payment of compensation for his service, the plaintiff or judgment creditor may apply, on not less than five days' notice, to the judge for an order appraising the money value of such board or lodging, use of house or other thing, and the value thus ascertained shall be deducted from the amount of the exemption to which the defendant or

Other benefits

judgment debtor would otherwise be entitled. R.O. 1958, c. 52, s. 17; 1965 (2nd) c. 6, s. 1.

ATTACHMENT OF SMALL DEBTS

Application to
Small Debts
proceedings

18. (1) Subject to this section, the provisions of this Ordinance apply to proceedings before Small Debts Officials with such changes in the title of the court, the style of the officers, the forms of process and other matters as are necessary to make the same applicable to such proceedings.

(2) Service of a garnishee summons on a judgment debtor and a garnishee, and service of notice of payment out on a judgment debtor in proceedings in the Small Debts Court, may be made and proved in the manner provided by Section 54 of the *Judicature Ordinance*. R.O. 1958, c. 52, s. 18; 1969 (2nd) c. 2, s. 2.

SCHEDULE I

FORM A

(Section 3)

GARNISHEE SUMMONS

In the Court,
 Between of , plaintiff,
 and
 of , defendant,
 and
 of , garnishee.

To the above named garnishee.

You are hereby notified that the plaintiff has recovered a judgment in this Court against the defendant for

(or You are hereby notified that a suit has been entered in this Court in which the plaintiff claims of the defendant the sum of as shown by his Statement of Claim filed in Court, a copy of which is hereto annexed) and it is alleged on affidavit filed that you are indebted to the said defendant. You are required within twenty days from the service hereof to notify the clerk of this Court by statement in writing whether or not there is any debt due or accruing due from you to the defendant (or judgment debtor) and, if so, what debt and why you should not pay the same into Court to the extent of the plaintiff's claim and costs.

Issued at this day of
 , 19

(L.S.)

Clerk

NOTE:—Take notice that in default of your so notifying the clerk you are liable to have judgment entered against you.
 (To be endorsed in the same manner as a Writ of Summons)

R.O. 1958, c. 52, Sched.

FORM B

(Section 17(2))

APPLICATION FOR RELIEF

Court No.

In the Court,
 Between of , plaintiff,
 and
 of , defendant,
 and
 of , garnishee.

The defendant herein applies to the court for an order increasing his relief from six dollars per day and files in support an affidavit of circumstance.

Dated the day of , 19

FORM C

(Section 17 (4))

NOTICE OF APPOINTMENT TO
CONSIDER APPLICATION FOR RELIEF

Court No.

In the Court,
 Between of , plaintiff,
 and
 of , defendant,
 and
 of , garnishee.

Take Notice that at a.m. or as soon thereafter as the matter may be heard on the day or , 19 , the court will consider the defendant's application for relief. Filed herewith is a copy of applicant's affidavit of circumstance.

.....
Clerk

1965 (2nd) c. 6, s. 2.

CHAPTER H-1

HEALTH CARE INSURANCE PLAN ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Health Care Insurance Plan Ordinance*. 1971 (1st) c. 15, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“Administrator” means the Administrator of the Yukon Health Care Insurance Plan, appointed pursuant to section 5; “Administrator”

“certificate of registration” means “certificate of registration”

(a) a certificate of registration issued under this Ordinance, or

(b) any other document prescribed by the Regulations as being a certificate of registration for the purposes of this Ordinance;

“dependant” means a dependant of an insured person as defined in the Regulations; “dependant”

“Federal Act” means the *Medical Care Act of Canada*; “Federal Act”

“inspector” means a person appointed pursuant to subsection 5(3), or paragraph 6(1)(d); “inspector”

“insured health care services” means services covered by the Plan rendered by a medical practitioner that are medically required and may include health services rendered by a person lawfully entitled to render such service or services that are deemed by regulations to be insured health care services except any service that a person is eligible for and entitled to under any Act of the Parliament of Canada, except the *Medical Care Act*, and under any law of a province relating to workmen’s compensation; “insured health care services”

“insured person” means a person eligible for and entitled to insured services; “insured person”

“insured services” means insured health care services; “insured services”

“medical practitioner” means a person lawfully entitled to practice medicine in the place in which such practice is “medical practitioner”

carried on by him and includes any person who performs insured services;

"Plan" "Plan" means the Yukon Health Care Insurance Plan;

"resident" "resident" means a person lawfully entitled to be or to remain in Canada, who makes his home and is ordinarily present in the Territory, but does not include a tourist, transient or visitor to the Territory;

"Yukon Health Care Insurance Plan" "Yukon Health Care Insurance Plan" means the Plan established by this Ordinance and the regulations for providing insured health care services to insured persons. 1971 (1st) c. 15, s. 2.

INSURED SERVICES

Insured services 3. (1) Subject to the provisions of this Ordinance and the Regulations, every resident is eligible for and entitled to insured services. 1971 (1st) c. 15, s. 3.

PAYMENT OF ACCOUNT

Payments out of Y.C.R.F. 4. (1) From and out of moneys issued and advanced out of the Yukon Consolidated Revenue Fund, there may be paid, (a) to a medical practitioner or to a person on his behalf, amounts, in respect of insured services provided by that medical practitioner to insured persons, determined by the Administrator in accordance with the Regulations; or (b) to insured persons, the amounts, in respect of the cost of insured services provided by a medical practitioner to that person, determined by the Administrator in accordance with the Regulations. 1971 (1st) c. 15, s. 4.

Appointment of Administrator 5. (1) There shall be an Administrator, called the Yukon Health Care Insurance Plan Administrator, to be appointed by the Commissioner and where no Administrator has been appointed, the Commissioner shall act as such.

Duties of Administrator (2) The Administrator shall administer the Plan.

Officers and employees of Plan (3) The officers and employees necessary for the administration of the Plan shall be appointed under the Public Service Ordinance. 1971 (1st) c. 15, s. 5.

POWERS OF ADMINISTRATOR

Powers 6. (1) Subject to this Ordinance and the Regulations, the Administrator shall have the power

- (a) to determine eligibility for entitlement to insured services;
- (b) to determine the amounts that may be paid pursuant to paragraphs 4(1)(a) and 4(1)(b) in respect of the cost of insured services rendered to insured persons;
- (c) to conduct surveys and research programs and obtain statistics for such purposes;
- (d) from time to time, to appoint inspectors and auditors to examine and obtain information from medical records, reports and accounts; and
- (e) to perform any other functions and discharge any other duties assigned to him by this Ordinance or the Regulations. 1971 (1st) c. 15, s. 6.

REPORT TO THE COMMISSIONER

7. (1) The Administrator shall make an annual report to the Commissioner respecting the administration of the Plan. 1971 (1st) c. 15, s. 7.

Annual report to the Commissioner

LIABILITY OF ADMINISTRATOR

8. (1) The Administrator is not liable for any acts or omissions of any medical practitioner or any employee or agent of any medical practitioner. 1971 (1st) c. 15, s. 8.

Administrator not liable for acts, etc. of medical practitioner

REGULATIONS

9. (1) The Commissioner may make regulations
- (a) establishing a Health Care Insurance Plan for furnishing on uniform terms and conditions to insured persons, insured services, which will in all respects qualify and enable the Territory to receive payments of contributions from the Government of Canada pursuant to the *Medical Care Act of Canada*;
 - (b) to administer and define the persons lawfully entitled to render insured services;
 - (c) specifying what services are insured services for the purpose of the Plan, prescribing what persons may render such services, under what conditions such services are insured services, and prescribing the amount of payment for such services;
 - (d) prescribing the forms and records necessary to carry out the purposes and provisions of this Ordinance;
 - (e) specifying for the purpose of paragraph 2(1)(e), the statutes or laws referred to therein;
 - (f) prescribing the terms and conditions under which a person is eligible for and entitled to insured services;

Regulations

- (g) prescribing services that shall be deemed not to be insured services for the purposes of this Ordinance and the conditions under which costs of any class of insured services are payable and limiting the payments commensurate with the circumstances of the performed services; and
- (h) providing for the making of claims for payment of the cost of insured services and prescribing the information which shall be furnished in respect of claims;

(2) For the purpose of carrying into effect the provisions of this Ordinance, the Commissioner may make such regulations not inconsistent with the spirit of this Ordinance as are considered necessary or advisable, and for that purpose, may provide for any proceeding, matter, or thing for which express provision has not been made in this Ordinance or for which only partial provision has been made. 1971 (1st) c. 15, s. 9.

Commissioner subrogated

10. (1) Upon the provision of insured services to an insured person in respect of an injury resulting from a wrongful act or omission of another person, the Commissioner shall be subrogated to all rights of the insured person for the purpose of recovering the cost of such insured services, and may bring an action either in his own name or in the name of the insured person for the recovery of the amount thereof and effect a settlement of such claim. 1971 (1st) c. 15, s. 10.

Insured persons may sue for insured services provided to him

11. (1) Notwithstanding section 10, an insured person who, as a result of a wrongful act or omission of another person, suffers an injury for which he has received insured services, may recover the amount of the cost of providing these services to him from the person guilty of the wrongful act or omission in the same manner as though he himself had been required to pay for those services.

Actions to include claim of Commissioner

(2) Every insured person described in subsection (1) who commences an action for the recovery of damages for personal injuries shall include therein a claim on behalf of the Commissioner for the cost of any insured services provided to the insured person.

Payments to Commissioner

(3) Where an insured person receives an amount in respect of insured services received by him either in an action to receive damages for personal injuries or by other means, he shall forthwith pay the amount so recovered to the Commissioner. 1971 (1st) c. 15, s. 11.

12. (1) Where the Commissioner has commenced action in the name of an insured person for the recovery of insured services provided to him, the insured person may

Joining of action commenced by Commissioner

- (a) any time prior to the trial of the action and
- (b) upon such conditions as to costs or otherwise as to the court seems just,

join in that action any other claims he may have arising out of the same occurrence. 1971 (1st) c. 15, s. 12.

13. (1) It shall not be a defence to an action brought by the Commissioner that the action has been adjudicated upon unless it included a claim for the amount paid for insured services.

No defence that Commissioner's claim adjudicated

(2) It shall not be a defence to an action to recover damages for personal injuries by a person who has received insured services that an action taken by the Commissioner for the recovery of insured services has been adjudicated upon. 1971 (1st) c. 15, s. 13.

14. (1) No release or settlement of a claim or judgment in an action to recover damages for personal injuries where the insured person has received insured services shall bind the Commissioner unless the Commissioner or his authorized officer has approved the release or settlement in writing. 1971 (1st) c. 15, s. 14.

Release or settlement

INSURANCE CONTRACTS

15. (1) No person shall make, renew or make payment under a contract, under which an insured person is to be provided with or to be reimbursed or indemnified for the cost of insured services either in whole or in part.

Insurance contracts

(2) An insured person shall not accept or receive any benefits under any contract or agreement whereby he may be provided with or reimbursed or indemnified for the cost of insured services either in whole or in part.

(3) A medical practitioner shall not accept or receive any payment under any contract or agreement whereby an insured person may be provided with or reimbursed or indemnified for the cost of insured services either in whole or in part. 1971 (1st) c. 15, s. 15.

OFFENCES AND PENALTIES

Unqualified persons not to receive insured services

16. (1) No person shall knowingly obtain or receive insurance services to which he is not entitled under this Ordinance or the Regulations.

Aiding and abetting

(2) No person shall knowingly aid or abet another person to obtain or receive insured services to which such other person is not entitled under this Ordinance or the Regulations.

Obstruction of an inspector

(3) No person shall obstruct or hinder an inspector or auditor in carrying out his duties or functions under this Ordinance or the Regulations.

Offence and punishment

(4) Every person who violates any of the provisions of this Ordinance or the Regulations commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment. 1971 (1st) c. 15, s. 16.

Registration

17. (1) Every resident other than a dependent or a person exempted by the Regulations from so doing, shall register himself and his dependents with the Administrator, at the place and in the manner and form and at the times prescribed by the Regulations. 1971 (1st) c. 15, s. 17.

Offences. Certificate of Registration

18. (1) Every person who produces to a person who renders insured services or a member of his staff, a certificate of registration under this Ordinance

(a) knowing that the person named therein is not at the time of production thereof a resident of the Territory, or

(b) knowing that the person on behalf of whom and to facilitate whose treatment it is produced, is not the person named therein or a dependent of that person,

commits an offence. 1971 (1st) c. 15, s. 18.

Secrecy of information

19. (1) Every person employed in the administration of the Plan or the Ordinance shall preserve secrecy with respect to all matters that come to his knowledge in the course of employment, and which pertain to insured services rendered and benefits paid therefor, and shall not communicate any such matters to any other person except as otherwise provided in this section.

When information given

(2) A person referred to in subsection (1) may furnish information pertaining to the date on which insured services

were provided, the name and address of the person who provided the service, the benefits paid and the person to whom they were paid, but the information shall be furnished only

- (a) in connection with the administration of this Ordinance and the Regulations or the Federal Act;
- (b) in proceedings under this Ordinance and the Regulations or the Federal Act; and
- (c) to the person who provided or received the service or the solicitor, personal representative or guardian, committee of estate, trustee in bankruptcy or other legal representative of the person;

(3) Information in the hands of the Administrator may be published by the Government of the Territory in statistical form if the individual names of persons are not thereby revealed or made identifiable. Statistics

(4) With the consent of the Administrator, information of the kind referred to in subsection (2) and any other information pertaining to the nature of insured services provided and any diagnosis given by the person who provided the services, may be disclosed or communicated to the appropriate person or persons for the purpose of investigating a complaint against a medical practitioner or for use in disciplinary procedures involving that medical practitioner.

(5) The Administrator may disclose to a professional association any information referred to in subsection (2) and any other information that pertains to insured services rendered by a medical practitioner if he considers that it is in the interest of the public and the professional association that information be so disclosed. Professional associations

(6) In subsection (5), professional association means a professional association of which a medical practitioner is a member or in which he is seeking membership.

(7) A person who contravenes the provisions of this section commits an offence. Offence

(8) No report, form or return prescribed by or required for the purpose of this Ordinance or the Regulations shall be admitted in evidence in any judicial proceedings, other than a judicial proceeding under this Ordinance, adversely to affect the interest of the person making the report, form, or return. 1971 (1st) c. 15, s. 19. Reports not evidence

- Protection of action** **20.** (1) No action lies against a person who renders insured services or a member of his staff in respect to information furnished to the Administrator in respect of insured services rendered by such person. 1971 (1st) c. 15, s. 20.
- Rights to benefits not assignable** **21.** (1) Except as provided by the Regulations, the right of any person to receive payment of benefits is not assignable and no sum owing by the Administrator is liable to be charged or to be attached in any proceeding. 1971 (1st) c. 15, s. 21.
- Limitations** **22.** (1) A prosecution for an offence under this Ordinance may be instituted at any time not exceeding two years from the date of the offence. 1971 (1st) c. 15, s. 22.
- 23.** (1) The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory any agreement with any person or government providing for
- (a) the payment to the person or government by the Government of the Territory of the costs of providing insured services as determined pursuant to the agreement; and
- (b) any other terms and conditions agreed upon by the Commissioner.
- (2) 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 any agreement entered into pursuant to subsection (1). 1971 (1st) c. 15, s. 23.
- Resident to pay premium** **24.** (1) Every resident who is not a dependent, shall be liable to pay to the Administrator the premium fixed pursuant to section 27. 1971 (1st) c. 15, s. 24.
- Deduction by employer** **25.** (1) Every employer shall deduct from the remuneration of each of his employees the premium required under this Ordinance and remit such premiums to the Administrator in the manner and at the times prescribed in the Regulations. 1971 (1st) c. 15, s. 25.
- Saving for collective agreement** **26.** (1) Nothing in this Ordinance shall interfere with any collective agreement, agreement or arrangement between an employer and his employees regarding the proportion or percentage sharing by the employer and his employee of the gross premium, nor with any arrangement for the collection and remittance of the premium by payroll deduction. 1971 (1st) c. 15, s. 26.

27. (1) The premiums payable by insured persons shall be those prescribed from time to time by the Commissioner. 1971 (1st) c. 15, s. 27. Amount of premium

28. (1) Notwithstanding any provision of this Ordinance or the Regulations any resident shall be entitled to any insured services provided in accordance with this Ordinance, whether or not the premium in respect of such person has been paid. 1971 (1st) c. 15, s. 28. All residents entitled to services

29. (1) The Commissioner shall have the power to waive the payment of premiums by any class of persons he may prescribe. 1971 (1st) c. 15, s. 29. Waiver of premiums

POWERS OF INSPECTION

30. (1) An inspector may for the purpose of enforcing this Ordinance of the Regulations, Powers of inspector

(a) inspect and examine all books, payrolls and other records of an employer that in any way relate to the remittance of premiums by the employer to the Administrator; Powers of inspectors

(b) take extracts from or make copies of any entry in the books, payrolls and other records mentioned in paragraph (a);

(c) require any employer to make or supply full and correct statements, either orally or in writing in the required form, respecting the collection and remittance of premiums; and

(d) at any reasonable time, enter upon any place used in connection with any business establishment for the purpose of making an inspection under this section. Right to enter premises

(2) The inspector shall be supplied by the Commissioner with a certificate of his authority and on entering any place used in connection with a business establishment shall, if so required, produce the certificate to the person in charge thereof. Certificate of authorization

(3) The person in charge of any business establishment and every person employed therein or in connection therewith, shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties under this Ordinance and the Regulations. 1971 (1st) c. 15, s. 30. Duty to assist inspectors

31. (1) An inspector may administer all oaths and take and receive all affidavits and statutory declarations required Administering oaths

under subsection 30 (1) and may certify them. 1971 (1st) c. 15, s. 31.

Where under-
payment found
on inspection

32. (1) Where an inspector finds that an employer has failed to remit premiums in respect of any employee, the inspector may determine the amount not remitted and the employer shall, within 5 days of notification by the Administrator pay the amount to the Administrator. 1971 (1st) c. 15, s. 32.

INFORMATION AND RETURNS

Information

33. (1) Every employer shall keep records and supply any information relating to the collection and remittance of premiums, and make any returns thereon from time to time the Commissioner may require.

Notice to supply
information

(2) The Commissioner may require an employer to supply information referred to in subsection (1) by a notice to that effect served personally or sent by registered mail addressed to the last known address of the employer for whom the notice is intended and the employer shall supply the information within the time specified in the notice. 1971 (1st) c. 15, s. 33.

CHAPTER H-2

HISTORIC SITES AND MONUMENTS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Historic Sites and Monuments Ordinance*. 1968 (4th) c. 3, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“board” means the Historic Sites and Monuments Board of the Yukon Territory established by this Ordinance; “board”

“historic place” means a site, building or other place of historic interest or significance, and includes buildings or structures or things that are of interest by reason of age or architectural design. 1968 (4th) c. 3, s. 2. “historic place”

COMMEMORATION OF HISTORIC SITES

3. (1) The Commissioner may Powers of Commissioner
(a) by means of plaques or other signs or in any other suitable manner, mark or otherwise commemorate historic places;
(b) make agreements with any persons for marking or commemorating historic places pursuant to this Ordinance and for the care and preservation of any places so marked or commemorated;
(c) establish historic museums;
(d) acquire any historic places, lands or things for historic museums or any interest therein, by purchase, lease or otherwise; and
(e) provide for the administration, preservation and maintenance of any historic places acquired or historic museums established pursuant to this Ordinance. 1968 (4th) c. 3, s. 3.

HISTORIC SITES AND MONUMENT BOARD

4. (1) There shall be a Board called the Historic Sites and Monuments Board of the Yukon Territory, consisting of not more than ten members appointed by the Commissioner, of Board established

whom seven shall be appointed on the recommendation of the Council.

Term of office (2) A member holds office during pleasure for such period not exceeding two years as may be fixed by the Commissioner.

Reappointment (3) A retiring member of the Board is eligible for re-appointment.

Chairman (4) The members of the Board shall choose one of their number to be the chairman thereof.

Vice-chairman (5) The members of the Board may choose one of their number to be vice-chairman thereof.

Quorum (6) A majority of the members constitutes a quorum.

Commissioner may provide staff (7) The Commissioner may
 (a) designate an officer of the Public Service of the Territory to be the Secretary of the Board ; or
 (b) appoint a Secretary of the Board at such remuneration and under such terms or conditions of employment as may be prescribed, and may, from among the persons employed in the Public Service, provide the Board with such other employees or assistants that are necessary for the proper conduct of the business of the Board.

Meetings to be held (8) The Board shall meet at least once in every calendar year at the call of the chairman, but the time and place of each such meeting is subject to the approval of the Commissioner; and, in addition, the Board shall hold such other meetings at such times and places as the Commissioner may require. 1968 (4th) c. 3, s. 4.

Powers and duties of board 5. (1) The Board may receive and consider recommendations respecting the marking or commemoration of historic places, the establishment of historic museums and the administration, preservation and maintenance of historic places and historic museums, and shall advise the Commissioner in carrying out his powers under this Ordinance.

(2) The Board may recommend that studies be commissioned. 1968 (4th) c. 3, s. 5.

Fees and expenses 6. (1) Each member of the Board appointed by the Commissioner may be paid such remuneration and travelling and living expenses as may be fixed by the Commissioner. 1968 (4th) c. 3, s. 6.

7. (1) All expenditures for the purpose of this Ordinance shall be paid out of moneys appropriated by the Commissioner in Council therefor. 1968 (4th) c. 3, s. 7. Expenditures

8. (1) The Commissioner may make regulations for carrying the provisions of this Ordinance into effect. 1968 (4th) c. 3, s. 8. Regulations

9. (1) As soon as practicable after the end of each fiscal year the Board shall submit to the Commissioner a report of its proceedings for that year in such form as the Commissioner may prescribe. Annual reports

(2) In addition to the report required by subsection (1), the Board shall furnish to the Commissioner such other statements or reports in respect of its activities, at such time and in such manner, as the Commissioner may require. 1968 (4th) c. 3, s. 9. Further reports

CHAPTER H-3

HOSPITAL INSURANCE SERVICES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Hospital Insurance Services Ordinance*. 1960 (1st) c. 2, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“Federal Act” means the *Hospital Insurance and Diagnostic Services Act of Canada*; “Federal Act”

“hospital insurance plan” means the plan established by this Ordinance and the regulations for providing insured services to insured persons; “hospital insurance plan”

“insured person” means a person who is eligible for and entitled to insured services; “insured person”

“insured services” means the in-patient and out-patient services to which insured persons are entitled under this Ordinance and the regulations but does not include services any person is eligible for and entitled to under any Act of the Parliament of Canada or a provincial legislature specified in the regulations or any other statute or law specified in the regulations; and “insured services”

“resident” means a person legally entitled to remain in Canada who makes his home and is ordinarily present in the Territory but does not include a tourist, transient or visitor to the Territory. 1960 (1st) c. 2, s. 2. “resident”

INSURED SERVICES

3. (1) Subject to the provisions of this Ordinance and the regulations, every resident is eligible for and entitled to insured services. 1960 (1st) c. 2, s. 3. Residents entitled to insured services

AGREEMENT AUTHORIZED

4. (1) The Commissioner may enter into an agreement with the Minister of National Health and Welfare of Canada pursuant to the Federal Act to provide for the payment by Canada to the Territory of contributions in respect of the Agreement authorized

cost of insured services incurred by the Territory pursuant to this Ordinance and the regulations.

Amendment to agreement

(2) An agreement under this section may, by mutual consent of the parties, be amended or terminated in the manner provided by the Federal Act. 1960 (1st) c. 2, s. 4.

PAYMENT OUT OF ACCOUNT

Payments out of Y.C.R.F.

5. (1) Out of moneys issued and advanced from the Yukon Consolidated Revenue Fund there may be paid

- (a) to a hospital in the Territory with which the Administrator has entered into an agreement under paragraph 7(1)(d), such amounts as are specified by the agreement in respect of the cost of insured services provided by that hospital to insured persons;
- (b) to any other hospital in the Territory, such amounts in respect of the cost of insured services provided by that hospital to insured persons as are determined by the Administrator in accordance with the regulations;
- (c) to any hospital outside the Territory, such amounts in respect of the cost of insured services provided by that hospital to insured persons outside the Territory as are determined by the Administrator in accordance with the regulations; and
- (d) to an insured person, such amounts in respect of the cost of insured services provided by a hospital outside the Territory to that person as are determined by the Administrator in accordance with the regulations. 1960 (1st) c. 2, s. 5.

ADMINISTRATION

Appointment of Administrator

6. (1) There shall be an Administrator to be appointed by the Commissioner and called the Yukon Hospital Insurance Administrator and where no Administrator is appointed the Commissioner shall act as such.

Duties of Administrator

(2) The Administrator is the chief executive officer charged with the responsibility of administering the hospital insurance plan and has supervision over and direction of the staff required to administer the plan.

Officers and employees of Plan

(3) The officers and employees necessary for the proper conduct of the hospital insurance plan shall be appointed under the provisions of the *Public Service Ordinance*. 1960 (1st) c. 2, s. 6.

POWERS OF ADMINISTRATOR

7. (1) Subject to this Ordinance and the regulations, the Administrator has power Powers

- (a) to develop and administer the hospital insurance plan;
- (b) to determine eligibility for and entitlement to insured services;
- (c) to determine the amounts that may be paid pursuant to paragraphs 5(1)(b) to 5(1)(d) in respect of the cost of insured services provided to insured persons;
- (d) to enter into agreements on behalf of the Territory with hospitals in or outside the Territory, or with the Government of Canada or any province or an appropriate agency thereof, for the provision of insured services to insured persons;
- (e) to approve hospitals for purposes of this Ordinance;
- (f) to conduct surveys and research programs and obtain statistics for such purposes;
- (g) to appoint inspectors and auditors to examine and obtain information from hospital records, reports and accounts;
- (h) to prescribe the forms and records necessary to carry out the provisions of this Ordinance; and
- (i) to perform such other functions and discharge such other duties as may be assigned to him by the regulations. 1960 (1st) c. 2, s. 7.

REPORT TO COMMISSIONER

8. (1) The Administrator shall make an annual report to the Commissioner respecting the administration of the hospital insurance plan and the report shall be tabled at the session of the Council next following the making thereof. 1960 (1st) c. 2, s. 8. Annual Report to Commissioner

LIABILITY OF ADMINISTRATOR

9. (1) The Administrator is not liable for any act or omission of any hospital official, any person on the medical staff or nursing staff of a hospital or any employee or agent of a hospital. 1960 (1st) c. 2, s. 9. Administrator not liable for acts, etc. of hospital

REGULATIONS

10. (1) The Commissioner may make regulations Regulations

- (a) establishing a hospital insurance plan for the furnishing to insured persons by hospitals of insured services upon uniform terms and conditions;
- (b) defining "hospitals" for the purposes of this Ordinance and the regulations;
- (c) prescribing the in-patient and out-patient services that insured persons are eligible for and entitled to as insured persons;
- (d) specifying for the purpose of paragraph 2(1)(d) the statutes or laws referred to therein;
- (e) prescribing the terms and conditions upon which a person is eligible for and entitled to insured services
- (f) respecting the inspection of hospitals;
- (g) prescribing the terms and conditions of approving hospitals for the purposes of the hospital insurance plan;
- (h) determining the cost of providing services in hospitals;
- (i) establishing the charges that may be made by hospitals to patients;
- (j) specifying the records and accounts to be kept by hospitals and the returns and reports to be made by them to the Administrator;
- (k) prescribing the terms and conditions upon which payment may be made to hospitals for the provision of insured services to insured persons, and the method of making such payments;
- (l) prescribing the terms and conditions upon which payment may be made in respect of the cost of insured services provided to insured persons outside the Territory, and the amount of such payments;
- (m) prohibiting, restricting or regulating the making or renewing of contracts
 - (i) to provide a resident with, or to reimburse or indemnify a resident for the cost of insured services, or
 - (ii) to provide a resident with any benefit related directly or indirectly to hospitalization or to the length of time a resident is in hospital;
- (n) regulating insurance contracts that provide for the payment of hospital insurance benefits supplementary to those provided pursuant to this Ordinance and the regulations;
- (o) respecting the powers of inspectors and auditors appointed by the Administrator to inspect hospitals and the records, reports and accounts thereof;

- (p) providing for the appointment of such advisory or other committees, agencies or persons as he considers necessary or advisable for the effective operation of the hospital insurance plan; and
- (q) generally for the administration of this Ordinance and for carrying into effect the purposes and provisions of any agreement entered into under section 4. 1960 (1st) c. 2, s. 10.

THIRD PARTY LIABILITY

11. (1) Upon the provision of insured services to an insured person in respect of an injury resulting from a wrongful act or omission of another person, the Commissioner shall be subrogated to all rights of the injured person for the purpose of recovering the cost of such insured services, and may bring an action either in his own name or in the name of the insured person for the recovery of the amount thereof and effect a settlement of such claim. 1960 (1st) c. 2, s. 11.

Commissioner subrogated

12. (1) Notwithstanding section 11, an insured person who, as a result of a wrongful act or omission of another person, suffers an injury for which he has received insured services may recover the amount of the cost of providing those services to him from the person guilty of the wrongful act or omission in the same manner as though he himself had been required to pay for those services.

Insured person may sue for insured services provided to him

(2) Every insured person described in subsection (1) who commences an action for the recovery of damages for personal injuries shall include therein a claim on behalf of the Commissioner for the cost of any insured services provided to him.

Actions to include claim for Commissioner

(3) Where a resident recovers an amount in respect of insured services received by him either in an action to recover damages for personal injuries or by other means he shall forthwith pay the amount so recovered to the Commissioner. 1960 (1st) c. 2, s. 12.

Payment to Commissioner

13. (1) Where the Commissioner has commenced action in the name of an insured person for the recovery of the cost of insured services provided to him, the insured person may

Joining of action commenced by Commissioner

- (a) at any time prior to the trial of the action, and
- (b) upon such conditions as to costs or otherwise as to the court seem just,

join in that action such other claims as he may have arising out of the same occurrence. 1960 (1st) c. 2, s. 13.

No defence that Commissioner's claim adjudicated

14. (1) It shall not be a defence to an action brought by the Commissioner that the claim has been adjudicated upon unless the claim subrogated included a claim for the amount paid for insured services and it shall not be a defence to an action to recover damages for personal injuries brought by a person who has received insured services that an action taken by the Commissioner for the recovery of the cost of those services has been adjudicated upon. 1960 (1st) c. 2, s. 14.

Release or settlement

15. (1) No release or settlement of a claim or judgment based upon an action to recover damages for personal injuries where the injured person has received insured services shall be binding upon the Commissioner unless the Commissioner or person designated by him has approved the release or settlement in writing. 1960 (1st) c. 2, s. 15.

OFFENCES AND PUNISHMENT

Unqualified persons not to receive insured services

16. (1) No person shall knowingly obtain or receive insured services to which he is not entitled under this Ordinance or the regulations.

Aiding and abetting

(2) No person shall knowingly aid or abet another person to obtain or receive insured services to which he is not entitled under this Ordinance or the regulations.

Obstruction of inspector

(3) No person shall obstruct or hinder an inspector or auditor in carrying out his duties or functions under this Ordinance or the regulations.

Offence and punishment

(4) Every person who violates any of the provisions of this Ordinance or the regulations commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding three months, or to both fine and imprisonment. 1960 (1st) c. 2, s. 16.

Limitation

17. (1) No prosecution for an offence under this Ordinance shall be instituted more than two years from the date of the commission of such offence. 1960 (1st) c. 2, s. 17.

CHAPTER H-4

HOTELS AND TOURIST ESTABLISHMENTS
ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Hotels and Tourist Establishments Ordinance*. 1968 (4th) c. 4, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“inspector” means a person appointed pursuant to section 3; “inspector”

“guest” means a person who obtains accommodation at a tourist establishment; “guest”

“operator” means the manager or other person in charge of a tourist establishment; “operator”

“register” means a bound book or card index system; “register”

“tourist establishment” means an hotel, motel, lodge, inn, tourist home, cabin or cottage used or intended to be used for the purpose of providing accommodation for the public. 1968 (4th) c. 4, s. 2. “tourist establishment”

ADMINISTRATION

3. (1) The Commissioner may appoint inspectors and such other officers as he deems necessary for carrying out the provisions of this Ordinance. 1968 (4th) c. 4, s. 3. Appointment of inspectors and officers

CONSTRUCTION AND ALTERATIONS

4. (1) No person shall Permit required

(a) construct a tourist establishment,

(b) move a building that is or forms part of a tourist establishment, or

(c) make any structural alteration to a tourist establishment,

unless he obtains a permit for that purpose from an inspector. 1968 (4th) c. 4, s. 4.

5. (1) Where a person seeks a permit for any purpose set out in section 4, he shall submit to an inspector Application for permit

- (a) an application for a permit in the prescribed form ; and
- (b) two copies of all plans and specifications relating to the application. 1968 (4th) c. 4, s. 5.

Issuance of permit

6. (1) When an application for a permit has been received by an inspector and the copies of plans and specifications referred to in section 5 are approved by him and by the Fire Marshal appointed pursuant to the *Fire Prevention Ordinance*, the inspector shall issue a permit to the applicant.

Term of permit

(2) A permit issued under subsection (1) expires twelve months from the date upon which it is issued unless it is expressed to be for a shorter period of time. 1968 (4th) c. 4, s. 6.

Compliance with *National Building Code*

7. (1) Where any work in respect of which a permit has been issued is performed, it shall be performed in compliance with such provisions of the *National Building Code* as the Commissioner may prescribe. 1968 (4th) c. 4, s. 7.

OPERATING REQUIREMENTS

Duties of operator

8. (1) Every operator shall
- (a) keep his tourist establishment in good repair and in a clean and sanitary condition ;
 - (b) keep the land surrounding his tourist establishment in good order and free from refuse ;
 - (c) have in attendance, at all times during the operation of his tourist establishment, at least one person capable of operating the establishment in a proper manner ;
 - (d) identify by name or number each sleeping unit, cabin or cottage ;
 - (e) equip the door of each sleeping unit, cabin or cottage with a lock and key ;
 - (f) equip all public washrooms and water closets with baffle partitions in such a manner as to ensure the privacy of the user ; and
 - (g) take all reasonable precautions to ensure the safety of his guests and their property. 1968 (4th) c. 4, s. 8.

Notices to be posted

9. (1) Every operator shall post and keep posted on the entrance door of each sleeping unit, cabin or cottage a notice stating
- (a) the rates charged for the sleeping unit, cabin or cottage when occupied by one person, two persons and more than two persons ;

(b) the hour before which a guest must vacate a sleeping unit, cabin or cottage or be deemed to have retained it for an additional day; and

(c) the provisions of sections 21 and 22 of this Ordinance.

(2) No operator shall charge a rate for a sleeping unit, cabin or cottage in excess of the rates specified in the notice referred to in paragraph (1)(a). 1968 (4th) c. 4, s. 9.

Rates not to exceed rates posted

REGISTRATION

10. (1) Every operator shall maintain a register in which he shall enter

Register to be kept

(a) the name or number of the sleeping unit, cabin or cottage occupied by each guest; and

(b) the date of arrival and departure of each guest. 1968 (4th) c. 4, s. 10.

11. (1) Every guest shall enter his name, usual place of residence and his vehicle licence plate number, if any, in the register. 1968 (4th) c. 4, s. 11.

Guests required to register

12. (1) No operator shall enter or knowingly allow to be entered any false information in the register. 1968 (4th) c. 4, s. 12.

False registration prohibited

13. (1) Every entry made in the register shall be retained by the operator for a period of not less than one year from the date of the entry. 1968 (4th) c. 4, s. 13.

Entries to be kept for one year

14. (1) The register shall be open at all reasonable times for inspection by any member of the Royal Canadian Mounted Police or by any officer appointed by the Commissioner. 1968 (4th) c. 4, s. 14.

Register to be open for inspection

CLOSURE OF TOURIST ESTABLISHMENTS

15. (1) Where an operator wishes to close his establishment he shall

Closure of tourist establishment

(a) at least seven days prior to the date of closing his establishment, file with the Commissioner a written notice of closure setting forth the date on which the establishment will close and the date, if any, on which he expects it will be reopened; and

(b) on or before the date on which the establishment is closed, affix to each highway sign advertising his establishment a notice advising the public that it is closed.

Size of notices required

(2) A notice referred to in paragraph (1)(b) shall be not less than one-quarter the size of the sign to which it is affixed. 1968 (4th) c. 4, s. 15.

SEIZURE AND DETENTION OF GOODS

Right to seize and detain goods

16. (1) Where a person who is indebted for accommodation to an operator has not removed his luggage or personal effects from a tourist establishment, the operator of that establishment may seize and detain such goods.

(2) The tools of a workman for use by him in his trade or profession may not be seized and detained by an operator under this section. 1968 (4th) c. 4, s. 16.

Responsibility for goods detained

17. (1) An operator is responsible for the safe keeping of any goods detained by him pursuant to section 16. 1968 (4th) c. 4, s. 17.

SALE OF DETAINED GOODS

Inspection and sale of detained goods

18. (1) Where the amount of the indebtedness for which any goods were detained remains unpaid for a period of not less than one month after the date upon which they were seized, the operator who seized the goods may

- (a) in the presence of a peace officer, force or break the locks or fastenings on any trunk, valise or other article detained by him for the purpose of ascertaining and inspecting the contents thereof; and
- (b) subject to section 19, sell privately or by public auction the goods so detained. 1968 (4th) c. 4, s. 18.

Notice of sale to be given

19. (1) Where an operator intends to sell any goods pursuant to section 18, he shall, at least one month before the date of the sale, forward a notice of sale by registered mail to the person indebted to him at that person's last previous known address.

Contents of notice

- (2) A notice referred to in subsection (1) shall
 - (a) give a general description of the goods to be sold;
 - (b) specify the time and place of the sale;
 - (c) contain an itemized statement of the amount of the indebtedness, showing the sum due at the time of forwarding the notice;
 - (d) demand that the amount of the indebtedness be paid before the time of the sale; and
 - (e) state that if the amount of the indebtedness is not paid before the time of the sale, the goods will be sold

privately or by public auction at the time and place specified in the notice.

(3) An operator referred to in subsection (1) shall keep posted in a conspicuous place on his premises for at least one week prior to the time of the sale a copy of the notice of the sale referred to in that subsection. 1968 (4th) c. 4, s. 19. Notice to be posted

20. (1) Where a sale is held pursuant to section 18, the operator may use the proceeds of the sale to pay Application of proceeds of sale

- (a) the reasonable costs of holding the sale; and
- (b) the amount of indebtedness owing to him by the former owner of the goods that were sold.

(2) Where the proceeds of a sale held under section 18 exceed the amount of money required to pay the costs and indebtedness referred to in subsection (1), the operator, upon application therefor, shall pay the balance of the proceeds to the person entitled thereto. Idem

(3) Where an application referred to in subsection (2) is not made within thirty days from the date of the sale, the operator shall pay the balance of the proceeds to the Territorial Treasurer who shall hold it for the person entitled to it for one year from the date of the sale. Idem

(4) Where a claim for the balance of the proceeds of a sale held under section 18 is not made to the Territorial Treasurer within one year from the date of sale, the balance of the proceeds of that sale shall become part of the Yukon Consolidated Revenue Fund. 1968 (4th) c. 4, s. 20. Idem

LIABILITY OF OPERATORS

21. (1) No operator is liable to compensate any guest for loss of or damage to goods or property brought to his establishment unless the goods or property Liability of operator for property of guests

- (a) were located in the sleeping unit, cabin or cottage assigned to that person and were stolen, lost or damaged through the fault or neglect of the operator or of any employee or agent of the operator;
- (b) were deposited with the operator for safe custody; or
- (c) were checked in a checking room in the establishment.

(2) An operator may, as a condition of his liability, require that goods or property tendered by a guest for safe custody be placed in a box or other receptacle fastened and sealed by the guest. Condition of liability

Refusal to
receive property
for safe custody

(3) Where an operator refuses to receive for safe custody any goods or property of a guest, or where a guest, through any default of the operator, is unable to deposit goods or property for safe custody, the operator is not entitled to the protection of this Ordinance in respect thereof unless he proves that his establishment was not equipped with a safe or vault and that he so informed the guest at the time of refusing to receive the goods or property.

Receipt for
property
deposited for
safe custody

(4) When a guest deposits money, jewelry, documents or valuables of a similar nature for safe custody with an operator, the operator at the time of deposit shall give that guest a receipt therefor, which shall be surrendered by the guest when his property is returned to him. 1968 (4th) c. 4, s. 21.

Liability for
property in room
of guest

22. (1) Notwithstanding anything in this Ordinance, an operator shall not be liable for theft, loss of or damage to any goods or property of a guest unless the door of the sleeping unit, cabin or cottage occupied by that guest was locked during his absence therefrom and the keys to the lock given to the guest were left with the operator. 1968 (4th) c. 4, s. 22.

No protection
unless notice
posted

23. (1) An operator is entitled to the benefit of sections 21 and 22 only in respect of goods or property brought into his establishment while the provisions of those sections are posted as required by subsection 9 (1). 1968 (4th) c. 4, s. 23.

Undesirable
persons may be
removed

24. (1) Subject to section 4 of the *Fair Practices Ordinance*, an operator may remove any person from his establishment who in his opinion is undesirable if the operator has requested that person to leave the establishment and has given such person a reasonable opportunity to do so. 1968 (4th) c. 4, s. 24.

EXEMPTIONS FROM SEIZURE

Exemptions
under writs of
execution not to
apply

25. (1) Property exempt from seizure under writs of execution shall not be exempt from seizure under a writ of execution issued on a judgment obtained by an operator in respect of an indebtedness incurred for accommodation supplied by him. 1968 (4th) c. 4, s. 25.

REGULATIONS

Regulations

26. (1) The Commissioner may make regulations necessary to carry out the provisions of this Ordinance. 1968 (4th) c. 4, s. 26.

OFFENCES

27. (1) Every person who contravenes a provision of this Ordinance commits an offence and is liable upon summary conviction to a fine not exceeding five hundred dollars. 1968 (4th) c. 4, s. 27. Offences and
penalty

CHAPTER H-5

HOUSING ORDINANCE

1. This Ordinance may be cited as the *Housing Ordinance*. Short title
1961 (2nd) c. 3, s. 1.

2. (1) In this Ordinance Definitions

“approved lender” means a lender approved by the Governor in Council for the purpose of making loans under the *National Housing Act, 1954*; “approved lender”

“Corporation” means the Central Mortgage and Housing Corporation. 1961 (2nd) c. 3, s. 2. “Corporation”

3. (1) Subject to this Ordinance, the Commissioner may make a loan to any person described in subsection (2) to assist that person in the construction of a house. Commissioner may make loans

- (2) The Commissioner may make a loan to any person who
 - (a) is the holder in fee simple of the land on which the house is to be constructed;
 - (b) is not a mortgager to the Commissioner; and
 - (c) satisfied the Commissioner that the Corporation has agreed to make a loan to him, or has undertaken to insure a loan made to him by an approved lender, to assist in the construction of the house.

(3) A loan made under this section shall Conditions

- (a) not exceed two thousand dollars in respect of any one house;
- (b) bear interest at a rate fixed by order of the Commissioner.
- (c) be for a term not exceeding thirty-five years;
- (d) be secured by a mortgage in favour of the Commissioner upon the land on which the house is to be constructed;
- (e) be repayable in full during the term thereof by equal payments of principal and interest; and
- (f) be subject to such other terms and conditions as the Commissioner may deem desirable. 1961 (2nd) c. 3, s. 3; 1962 (1st) c. 12, s. 1; 1964 (1st) c. 2, s. 1; 1966 (1st) c. 9, s. 1; 1967 (1st) c. 13, s. 1.

Commissioner
may execute
agreement

4. (1) The Commissioner is authorized to enter into and execute on behalf of the Territory an agreement with the Corporation respecting the administration of loans made by the Commissioner pursuant to this Ordinance.

Terms of
agreement

(2) The agreement described in subsection (1) shall provide that

- (a) the Corporation will attend to the preparation, execution and registration of all documents necessary to complete applications for loans made under this Ordinance and for the securing of such loans, and will advise the Commissioner respecting the advancement of moneys under such loans;
- (b) the Corporation will collect all moneys due to the Commissioner under mortgages given to secure loans made under this Ordinance and pay such moneys to the Yukon Consolidated Revenue Fund;
- (c) the Corporation will take all action necessary to enforce payment of mortgages given to the Commissioner to secure loans under this Ordinance including foreclosure;
- (d) the Territory will, semi-annually and not in advance pay to the Corporation an amount equal to one half of one percent per annum of the aggregate of all principal moneys then outstanding on all loans made under this Ordinance; and
- (e) it contain such other terms and conditions as may be agreed upon by the Commissioner. 1961 (2nd) c. 3, s. 4.

Implementation

5. (1) The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by, and enforcing every right accruing to, the Territory under this Ordinance. 1961 (2nd) c. 3, s. 7.

Regulations

6. (1) The Commissioner may make regulations concerning any matter which he deems necessary to carry out the provisions of this Ordinance. 1961 (2nd) c. 3, s. 8.

CHAPTER H-6

HOUSING DEVELOPMENT ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Housing Development Ordinance*. 1967 (1st) c. 6, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“Corporation” means the Central Mortgage and Housing Corporation; “Corporation”

“family housing unit” means a unit providing living, sleeping, eating, food preparation and sanitary facilities for one family, with or without other essential facilities shared with other family housing units; “family housing unit”

“house” means a building, together with the land upon which it is situated, intended for human habitation comprising not more than two family housing units; “house”

“housing project” means a project, together with the land upon which it is situated, consisting of one or more houses, or one or more multiple-family dwellings or a combination of houses and multiple-family dwellings, together with any public space, recreational facilities, commercial space, and other buildings appropriate to the project; “housing project”

“multiple-family dwelling” means a building containing three or more family housing units; “multiple-family dwelling”

“municipality” means any part of the Territory established or continued as a city or village under the *Municipal Ordinance*; “municipality”

“public housing project” means a project, together with the land upon which it is situated, consisting of a housing project or housing accommodation of the hostel or dormitory type or any combination thereof, undertaken to provide decent, safe and sanitary housing accommodation and intended to be leased to individuals or families of moderate or low income; “public housing project”

“urban renewal area” means a blighted or substandard area of a municipality for which the Commissioner has approved the implementation of an urban renewal scheme; “urban renewal area”

"urban renewal scheme" "urban renewal scheme" means a scheme for the renewal of an urban renewal area. 1967 (1st) c. 6, s. 2.

PUBLIC HOUSING

Municipalities may undertake public housing project **3. (1)** The Commissioner or a municipality with the approval of the Commissioner may undertake and operate a public housing project for the purpose of providing housing accommodation to individuals or families of moderate or low income at rentals that are sufficient to meet the cost of amortizing and operating the project or that are less than the rentals required to meet such costs.

Powers of municipalities **(2)** For the purpose of undertaking a public housing project approved by the Commissioner the council of a municipality may
 (a) acquire and develop land for housing purposes;
 (b) construct housing projects or housing accommodation of the hostel or dormitory type for sale or for rent; and
 (c) acquire, improve and convert existing buildings for a housing project or for housing accommodation of the hostel or dormitory type.

Payments by Commissioner towards operating losses **(3)** The Commissioner may, on behalf of the Territory, enter into an agreement with the council of any municipality operating a public housing project whereby the Commissioner will pay annually to the municipality an amount calculated in the agreement and not exceeding thirty percent of the annual operating losses incurred by the municipality, as determined by the Commissioner, in operating the public housing project. 1967 (1st) c. 6, s. 3.

Borrowing of money for public housing purposes **4. (1)** The Commissioner, on behalf of the Territory, or the council of a municipality, with the approval of the Commissioner, may enter into an agreement with the Corporation for the purpose of borrowing money for
 (a) acquiring and servicing land for public housing purposes; or
 (b) the construction or acquisition of a public housing project. 1967 (1st) c. 6, s. 4.

Commissioner may undertake projects jointly with C.M.H.C. **5. (1)** The Commissioner, on behalf of the Territory, may enter into an agreement with the Government of Canada to undertake jointly with the Government of Canada projects for
 (a) the acquisition and development of land for housing purposes;

- (b) the construction of housing projects or housing accommodation of the hostel or dormitory type for sale or for rent; and
- (c) the acquisition, improvement and conversion of existing buildings for a housing project or for housing accommodation of the hostel or dormitory type.

(2) The Commissioner, on behalf of the Territory, or the council of a municipality on behalf of the municipality, may enter into an agreement to undertake jointly any project described in subsection (1), but such agreement shall not require the municipality to pay more than ten percent of the capital costs or losses of the project.

Commissioner may undertake projects jointly with municipality

(3) Where a municipality enters into an agreement with the Commissioner pursuant to subsection (2), the municipality may, notwithstanding anything contained in the *Municipal Ordinance*, charge all or any part of the amount it is required to pay under the agreement for capital costs or losses or towards the costs of installing municipal services as a local improvement charge against the land comprised in the project and may determine the proportions in which the amount is to be charged against various parcels of land in the project. 1967 (1st) c. 6, s. 5.

Project costs charged as local improvements

URBAN RENEWAL

6. (1) A municipality may, with the approval of the Commissioner, prepare and carry out an urban renewal scheme within the municipality.

Municipalities may undertake urban renewal schemes

(2) An urban renewal scheme in a municipality shall include

Contents of urban renewal scheme

- (a) a plan designating the buildings and works in the urban renewal area that are to be acquired and cleared by the municipality in connection with the scheme and for making available to persons dispossessed of housing accommodation by such acquisition or clearance, decent, safe and sanitary housing accommodation at rentals that are fair and reasonable having regard to the incomes of the persons to be dispossessed;
- (b) a plan describing the proposed street pattern and land use for the urban renewal area, and the program for the construction or improvement in the area of municipal services, schools, parks, playgrounds, community buildings and other facilities;
- (c) a description of the methods planned for municipal direction and control of the use of land in the urban

renewal area, including zoning, building controls and standards of occupancy of buildings in the area ; and

- (d) a description of the methods planned for the improvement, rehabilitation or replacement of privately owned facilities, including housing accommodation, that will continue in the area, and the techniques planned for retarding such facilities from becoming substandard. 1967 (1st) c. 6, s. 6.

Powers of municipalities

7. (1) For the purpose of carrying out an urban renewal scheme, the council of a municipality may

- (a) acquire and clear, service and develop land within an urban renewal area ;
- (b) demolish, remove, replace, renovate, repair and maintain buildings and other improvements owned or acquired by it in an urban renewal area ;
- (c) sell, lease or otherwise alienate property in an urban renewal area ;
- (d) provide assistance by grant or loans to the owners of property in an urban renewal area for the renovation or repair of that property on any terms for security and repayment that the municipality considers just ;
- (e) assist the relocation of persons dispossessed of housing accommodation by the scheme ; and
- (f) appoint a municipal development officer and authorize him to act on behalf of the council in the carrying out of the scheme and the enforcement of any by-law passed for the purpose of carrying out the scheme. 1967 (1st) c. 6, s. 7.

By-laws

8. (1) The council of a municipality, for the purpose of carrying out an urban renewal scheme, may pass by-laws

- (a) establishing minimum standards for existing property in an urban renewal area ;
- (b) prescribing standards for the maintenance and occupancy of property in an urban renewal area and prohibiting the use of property that does not conform to those standards ; and
- (c) requiring property that does not conform to the standards prescribed in a by-law to be repaired and maintained in compliance with those standards or requiring the land to be cleared of buildings that do not comply with those standards. 1967 (1st) c. 6, s. 8.

Notice that property does not comply with by-law

9. (1) Where, in the opinion of the council or the municipal development officer of a municipality, property in an

urban renewal area does not comply with the standards prescribed in a by-law made pursuant to section 8, the council or municipal development officer shall, before acting to enforce the by-law with respect to that property, serve the assessed owner and each occupant of the property and each person shown by the records of the land titles office as having an interest in the property with a notice stating in what respect the property does not comply with the by-law.

(2) The notice described in subsection (1) shall also state Contents

(a) particulars of the repairs that are required to be made to the property described therein, or

(b) the structures on the land that are to be removed, and shall fix a day not less than six months from the date of service of the notice by which repairs shall be made to the property or structures on the land removed.

(3) A notice described in subsection (1) may be given by registered mail or by personal service. 1967 (1st) c. 6, s. 9. Service

10. (1) Every person on whom a notice described in section 9 is served may appeal the requirements set forth in the notice to the council of the municipality. Appeal to council of municipality

(2) Notice of an appeal under subsection (1) shall be served on the clerk of the council within ten days from the day of service of the notice described in section 9, and the council shall fix a day for hearing the appeal, which day shall not be later than thirty days from the day of service of the notice of appeal. Service of notice and fixing of hearing day

(3) The hearing of an appeal may be adjourned from time to time by the council. Adjournment of hearing

(4) A municipal council may, after hearing an appeal made under subsection (1), Powers of municipal council on appeal

(a) confirm, discharge or vary the requirements set forth in the notice; or

(b) grant an extension of not more than one year from the day specified in the notice described in section 9, for compliance with the requirements of that notice, but no extension shall be granted unless the council is of the opinion that the refusal of an extension will result in undue hardship to any of the persons on whom the notice was served. 1967 (1st) c. 6, s. 10.

11. (1) Every person on whom a notice is required by section 9 to be served, may within ten days after the receipt Appeal to Commissioner

by him of a decision of the council, appeal that decision to the Commissioner.'

Powers of
Commissioner

(2) Where an appeal is made to the Commissioner under subsection (1), the Commissioner may confirm, discharge or vary any decision of a council made under section 10. 1967 (1st) c. 6, s. 11.

Municipality
may repair or
remove struc-
tures

12. (1) Where the repairs required to be made to any property or the removal of any structure is not completed within

- (a) the time fixed in the notice,
- (b) the time prescribed by the council of the municipality after hearing an appeal made under section 10, or
- (c) the time fixed by the Commissioner after hearing an appeal made under section 10,

the council of the municipality may carry out repairs to the property or remove any structures thereon and the cost thereof shall be levied as a debt due to the municipality and charged as taxes due and owing to the municipality. 1967 (1st) c. 6, s. 12.

Agreements with
C.M.H.C.

13. (1) The Commissioner, on behalf of the Territory, or the council of a municipality, with the approval of the Commissioner, may enter into agreements with the Corporation for the preparation and carrying out of urban renewal schemes. 1967 (1st) c. 6, s. 13.

Borrowing for
urban renewal
schemes

14. (1) The Commissioner, on behalf of the Territory, or the council of a municipality, with the approval of the Commissioner, may enter into an agreement with the Corporation for the purpose of borrowing money for the implementation of an urban renewal scheme or any part thereof. 1967 (1st) c. 6, s. 14.

Payments
towards costs

15. (1) The Commissioner, on behalf of the Territory, may enter into an agreement with any municipality undertaking or acquiring an urban renewal scheme whereby the Commissioner will pay to the municipality an amount calculated in the agreement and not exceeding thirty percent of the costs incurred by the municipality, as determined by the Commissioner, in undertaking an urban renewal scheme. 1967 (1st) c. 6, s. 15.

GENERAL

16. (1) The municipality may, with the approval of the Commissioner, undertake and operate a housing project within the municipality. Municipalities may undertake housing projects

(2) For the purpose of undertaking a housing project approved by the Commissioner, the council of a municipality may exercise all the powers set out in subsection 3(2). 1967 (1st) c. 6, s. 16. Powers of municipalities

17. (1) The Commissioner, on behalf of the Territory, or the council of a municipality with the approval of the Commissioner, may enter into an agreement with the Corporation for the purpose of borrowing money for the construction of a sewage treatment project consisting of a trunk sewer, collector system, a central treatment plant or both, for the collection and treatment of sewage. 1967 (1st) c. 6, s. 17. Borrowing of money for sewage treatment projects

18. (1) The Commissioner, on behalf of the Territory, or the council of a municipality with the approval of the Commissioner, may enter into an agreement with the Corporation Agreement with C.M.H.C. on housing research and community planning

- (a)** for the preparation and undertaking of programs of technical research and investigation into the improvement and development of methods of construction, standards, materials, equipment, fabrication, planning, designing and other factors involved in the construction or provision of improved housing accommodation in the Territory ;
- (b)** for promoting training in the construction or designing of houses, in land planning or community planning or in the management and operation of housing projects in the Territory ; and
- (c)** to conduct special studies relating to the condition of urban areas, to means of improving housing, to the need for additional housing or for urban redevelopment in the Territory. 1967 (1st) c. 6, s. 18.

19. (1) The council of a municipality may with the approval of the Commissioner, by by-law, authorize the borrowing of money for any of the purposes described in this Ordinance on the security of mortgages given or debentures issued by the municipality and the provisions of the *Municipal Ordinance*, other than subsections 74(1) and 74(4), sections 75 and 76 and subsections 80(1) and 80(3), shall apply with respect to such by-laws and debentures. 1967 (1st) c. 6, s. 19. Security for loans to municipalities

Additional
agreements

20. (1) The Commissioner, on behalf of the Territory, or the council of a municipality, with the approval of the Commissioner, may enter into such other agreements with the Corporation as in the opinion of the Commissioner will assist the Territory or the municipality in carrying out the purposes of this Ordinance. 1967 (1st) c. 6, s. 20.

CHAPTER I-1

IMMUNITY OF MEMBERS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Immunity of Mem-* Short title
bers Ordinance. 1966 (1st) c. 1, s. 1.

IMMUNITY FROM ACTION

2. (1) A member of the Council is not liable to any civil Immunity from
action or prosecution, arrest, imprisonment or damages by
reason of any matter or thing brought by him by petition,
bill, resolution, motion or otherwise, or said by him before
the Council or a committee thereof. 1966 (1st) c. 1, s. 2.

CHAPTER I-2

INSURANCE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Insurance Ordinance*. R.O. 1958, c. 57, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“accidental death insurance” means insurance undertaken by an insurer as part of a contract of life insurance where the insurer undertakes to pay an additional amount of insurance money in the event of the death by accident of the person whose life is insured; “accidental death insurance”

“accident insurance” means insurance by which the insurer undertakes, other than by and incidentally to some other class of insurance defined by or under this Ordinance, to pay insurance money in the event of accident to the person insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause; “accident insurance”

“adjuster” means a person who, for compensation, not being a barrister or solicitor acting in the usual course of his profession or a trustee of the property insured or an agent of the owner or person having an insurable interest in the property insured, directly or indirectly solicits the right to negotiate the settlement of a loss under a contract of insurance on behalf of the insured or the insurer, or holds himself out as an adjuster of losses under the contract; “adjuster”

“agent” means a person who, for compensation, solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for a policy of insurance to or from an insurer or offers or assumes to act in the negotiation of such insurance or its continuance or renewal; “agent”

“automobile” includes all self-propelled vehicles, their trailers, accessories and equipment, but does not include railway rolling stock, watercraft or aircraft of any kind; “automobile”

“automobile insurance” means insurance against liability for loss or damage to persons or property caused by an “automobile insurance”

- automobile or the use or operation thereof, and against loss of or damage to an automobile ;
- "beneficiary" "beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable ;
- "contract" "contract" means a contract of insurance and includes a policy, certificate, interim receipt, renewal receipt or writing, evidencing the contract, whether sealed or not, and a binding oral agreement ;
- "disability insurance" "disability insurance" means insurance undertaken by an insurer as part of a contract of life insurance whereby the insurer undertakes to pay insurance money or to provide other benefits in the event that the person whose life is insured becomes disabled as a result of bodily injury or disease ;
- "fire insurance" "fire insurance" means insurance, not being insurance incidental to some other class of insurance defined by or under this Ordinance, against loss or damage to property through fire, lightning or explosion due to ignition ;
- "foreign jurisdiction" "foreign jurisdiction" means any jurisdiction other than the Territory ;
- "fraternal society" "fraternal society" means a society, order or association incorporated for the purpose of making with its members only, and not for profit, contracts of life, accident or sickness insurance in accordance with its constitution, by-laws and rules and this Ordinance,
- "head office" "head office" means the place where the chief executive officer of an insurer ordinarily transacts his business ;
- "industrial contract" "industrial contract" means a contract of life insurance for an amount not exceeding two thousand dollars, exclusive of any benefit, surplus, profit, dividend or bonus also payable under the contract, and that provides for payment of premiums at fortnightly or shorter intervals or, if the premiums are usually collected at the home of the insured, at monthly intervals ;
- "insurance" "insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event ;
- "insurance money" "insurance money" means the amount payable by an insurer under a contract, and includes all benefits, surplus, profits,

dividends, bonuses and annuities payable under the contract;

“insurer” means a person who undertakes, agrees or offers to undertake a contract; “insurer”

“licence” means a valid and subsisting licence issued under section 6; “licence”

“life insurance” means insurance whereby an insurer undertakes to pay insurance money, “life insurance”

(a) on death,

(b) on the happening of an event or contingency dependent on human life,

(c) at a fixed or determinable future time, or

(d) for a term dependent on human life,

and without restricting the generality of the foregoing, includes accidental death insurance but not accident insurance.

“policy” means the instrument evidencing a contract; “policy”

“premium” means the single or periodical payment under a contract, and includes dues, assessments and other consideration; “premium”

“premium note” means an instrument given as consideration for insurance whereby the maker undertakes to pay any sum that may be legally demanded by the insurer, where the aggregate sums do not exceed an amount specified in the instrument; “premium note”

“property” includes profits, earnings and other pecuniary interests, and expenditures for rents, interest, taxes and other outgoings and charges, and in respect of inability to occupy the insured premises, but only to the extent of express provision in the contract; “property”

“property damage insurance” means insurance against loss of or damage to property that is not included in or incidental to some other class of insurance defined by or under this Ordinance; “property damage insurance”

“public liability insurance” means insurance against loss or damage to the person or property of others that is not included in or incidental to some other class of insurance defined by or under this Ordinance; “public liability insurance”

“sickness insurance” means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person insured, but does not include disability insurance. R.O. 1958, c. 57, s. 2; 1967 (1st) c. 15, s. 1(1), (2), (3), (4). “sickness insurance”

Qualification to carry on business of insurance

3. (1) A company registered under the *Canadian and British Insurance Companies Act* or the *Foreign Insurance Companies Act* and any underwriter or syndicate of underwriters that is a member of the association known as Lloyd's of London, England may, subject to this Ordinance, carry on the business of insurance in the Territory.

Offence

(2) Every insurer carrying on the business of insurance in the Territory without being authorized pursuant to subsection (1) commits an offence and is liable on summary conviction to a fine of fifty dollars for every day during which it continues to carry on the business of insurance in the Territory. 1967 (1st) c. 15, s. 2; 1969 (3rd) c. 2, s. 1.

PART I

LICENCES FOR AGENTS

Licence for insurance agent

4. (1) Subject to subsection (2), no individual shall either on his own account or as a member or representative of a partnership or corporation, act or offer to undertake to act, as an insurance agent unless he is the holder of a licence.

Exception

(2) A member of a fraternal society, other than a member who receives a salary or commission for the purpose, may without a licence solicit members of the society to insure with the society.

Licence for firm, etc.

(3) A firm, partnership or corporation may apply for a licence in the name of the firm, partnership or corporation and shall designate one individual who shall act as its representative, and the licence, if granted shall, when issued, be in the name of the firm, partnership or corporation, and shall designate thereon the name of the individual who is authorized to act as an insurance agent on its behalf.

Licence for salaried officials, etc.

(4) An officer or salaried employee of any firm, partnership or corporation that holds a licence who does not receive a commission and who acts only in the name of and on behalf of the firm, partnership or corporation, may, upon application therefor approved by the firm, partnership or corporation, and upon payment of the prescribed fee, receive a licence authorizing him to act for the firm, partnership or corporation in the negotiating of any contracts of insurance or in the negotiation, continuance or renewal of any contracts which the firm, partnership or corporation may lawfully undertake. R.O. 1958, c. 57, s. 3; 1971 (1st) c. 20, s. 11(1).

5. (1) An application for a licence shall be made to the Commissioner and shall set forth Contents of application

- (a) the full name of the applicant;
- (b) the address of his place of business;
- (c) the classes of insurance that he will sell as agent;
- (d) the name and head office address of the insurer by whom, pursuant to subsection (2), the application has been approved; and
- (e) such other information as the Commissioner may require.

(2) The application referred to in subsection (1) shall be approved in writing Application approved by insurers

- (a) in the case of all classes of insurance other than life insurance, by at least one of the insurers to be represented by the applicant;
- (b) in the case of life insurance, by the insurer to be represented by the applicant; or
- (c) by the agent of an insurer mentioned in paragraphs (a) or (b) authorized for such purpose whose name is filed with the Commissioner.

(3) The application shall be accompanied by Application to be accompanied by references and fee

- (a) the approval in writing mentioned in subsection (2);
- (b) a character reference for the applicant and such other material as the Commissioner may require; and
- (c) the prescribed fee. R.O. 1958, c. 57, s. 4; 1971 (1st) c. 20, s. 11(2).

6. (1) The Commissioner may in his discretion issue to any person who has complied with the requirements of this Ordinance a licence in duplicate authorizing the person to carry on business as an insurance agent subject to this Ordinance and to the terms of the licence. Issue of licence

(2) Licences issued pursuant to this section shall be of two classes, namely, Classes of licence

- (a) licences for life insurance, life and accident insurance, or life, accident and sickness insurance, and
- (b) licences for any classes of insurance other than life insurance. R.O. 1958, c. 57, s. 5.

7. (1) A licence expires on the 31st day of March following the day upon which it came into effect. R.O. 1958, c. 57, s. 6. Expiration of licence

Material to accompany application where licence held

8. (1) Where on the date of application for a licence the applicant is the holder of an unexpired licence, he may in lieu of complying with paragraphs 5(1)(c) and 5(1)(d), subsection 5(2) and paragraph 5(3)(a), attach to his application a statement that he continues to represent the same insurer and to act as agent in respect of the same classes of insurance stated in his previous application. R.O. 1958, c. 57, s. 7.

Notification on ceasing to act

9. (1) Where a licensee ceases to act as agent for the insurer mentioned in his licence application he shall immediately notify the Commissioner of that fact. R.O. 1958, c. 57, s. 8.

Commissioner may cancel licence, etc.

10. (1) The Commissioner may refuse to issue a licence and may suspend or cancel a licence at any time. R.O. 1958, c. 57, s. 9.

Agent to display and carry licence

- 11. (1)** An agent shall
- (a) display one copy of his licence at his place of business;
 - (b) carry the other copy upon his person at all times when acting as an agent; and
 - (c) produce his licence upon request of any peace officer or person purchasing insurance. R.O. 1958, c. 57, s. 10.

Record to be kept

12. (1) The Commissioner shall keep a record of all licences issued pursuant to this Ordinance. R.O. 1958, c. 57, s. 11.

Certificate of proof

13. (1) A certificate given by the Commissioner that on a day mentioned in the certificate

- (a) a person mentioned therein was or was not licensed under this Ordinance;
- (b) a person mentioned therein was originally issued a licence; or
- (c) the licence of an agent mentioned therein was renewed, suspended, revived, revoked or cancelled;

is proof of the fact stated in the certificate. R.O. 1958, c. 57, s. 12.

Access to books of licensee

14. (1) The Commissioner or any person authorized by him shall at all reasonable times have access to the books, records and documents of any agent that relate to contracts of insurance.

Penalty

(2) Where the person in charge, possession, custody or control of the books, records or documents referred to in

subsection (1) refuses or neglects to afford access thereto as provided in this section, he commits an offence. R.O. 1958, c. 57, s. 13.

15. (1) Any person who

(a) acts as or holds himself out as an agent and is not the holder of a licence, or

(b) acts as or holds himself out to be an agent in respect of a class of insurance that is not named in his licence,

commits an offence. R.O. 1958, c. 57, s. 14.

Material to accompany application where licence held

16. (1) In any prosecution under this Ordinance, the burden of proof of his authority to carry on the business of an agent or to act as an agent is upon the person charged. R.O. 1958, c. 57, s. 15.

Burden of proof

17. (1) No insurer, or officer, agent or employee of an insurer or licensed agent shall, directly or indirectly, pay or allow, or offer or agree to pay or allow, any commission or other compensation or anything of value to any person in respect of the effecting or undertaking of insurance unless that person holds a licence at the time.

No commission except to licensee

(2) Subsection (1) does not affect the payment or allowance by an agent of part of his commission to brokers outside the Territory.

Exception

(3) No insurer, or officer, agent or employee of an insurer shall, directly or indirectly,

No agreements to be made except as stated in policy

(a) make or attempt to make any agreement respecting the premium to be paid for a policy other than as set forth in the policy with, or

(b) pay, allow or give, or offer or agree to pay, allow or give

(i) any rebate of the whole or part of the premium stipulated by the policy to, or

(ii) any other consideration or thing of value intended to be in the nature of a rebate of premium to,

any person insured or applying for insurance in respect of life, person or property.

(4) Nothing in this section

Exception

(a) affects any payment by way of dividend, bonus, profit or savings that is provided for by a policy,

(b) prevents an insurer from compensating a bona fide salaried employee of its head or branch office in

respect of insurance issued by the insurer upon the life of the employee, or

- (c) requires that such an employee shall be licensed as an agent for life insurance under this Ordinance to effect that insurance. R.O. 1958, c. 57, s. 16.

Inducement by agent to insured to lapse policy or to change insurers, etc., an offence

18. (1) Any person licensed as an agent for life insurance who

- (a) induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, paid up or extended insurance or other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer,
- (b) makes any false or misleading statement or representation in the solicitation or negotiation of life insurance, or
- (c) coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a business or a professional relationship or otherwise, to give a preference in respect of the placing of life insurance that would not otherwise be given in effecting such insurance,

commits an offence. R.O. 1958, c. 57, s. 17.

Agent receiving premium

19. (1) An agent shall, for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary.

(2) This section does not apply in respect of life insurance. R.O. 1958, c. 57, s. 18.

Exception fraudulent representations

20. (1) An agent who knowingly procures, by fraudulent representations, payment or the obligation for payment of any premium on an insurance policy, commits an offence.

Inducement to surrender policy an offence

(2) Any agent of an insurer or other person whatsoever who, by means of misleading or false statements, procures or induces, or attempts to procure or induce any person to surrender or otherwise avoid any policy of insurance, commits an offence. R.O. 1958, c. 57, s. 19.

21. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20. s. 11(3).

PART II

INSURANCE CONTRACTS IN THE TERRITORY

22. (1) Subject to this Ordinance, this Part applies in respect of every contract other than Application

(a) contracts of life insurance to which Part IV applies, and

(b) contracts of accident and sickness insurance to which Part VI applies. R.O. 1958, c. 57, s. 20.

23. (1) Every contract that insures a person domiciled or resident in the Territory at the date thereof or the subject matter of which is property within the Territory shall be deemed to be made in the Territory and construed accordingly. Contract deemed to be made in the Territory

(2) This section applies notwithstanding any agreement, condition or stipulation to the contrary. R.O. 1958, c. 57, s. 21.

24. (1) Subject to this section, every term and condition of a contract shall be set out in full in the policy or by writing securely attached to it when issued, and unless so set out no term of the contract or condition, stipulation, warranty or proviso, modifying or impairing its effect is valid or admissible in evidence to the prejudice of the insured or any beneficiary. Terms, etc., of contract invalid unless set out in full

(2) Subsection (1) does not apply to an alteration or modification of a contract agreed upon in writing by the insurer and the insured after the issue of the policy. Subsequent alteration

(3) Where a contract, whether or not it contains provision for its renewal, is renewed by a renewal receipt, it is a sufficient compliance with subsection (1) if the terms and conditions of the contract were set out in the contract being renewed as required by that subsection and the renewal receipt refers to that contract by its number or date. Where contract being renewed

(4) The proposal or application of an insured shall not, as against him, be deemed a part of or be considered with the contract except insofar as the Court may determine that such proposal or application contains a material misrepresentation by which the insurer was induced to enter into the contract. Insured's application not part of contract except, etc.

Contract not avoided by any statement not material

(5) No contract shall contain, have endorsed thereon or be made subject to any terms, conditions, stipulation, warranty or proviso

(a) providing that the contract shall be avoided by reason of any statement in the application therefor, or

(b) inducing the entering into of the contract by the insurer,

unless the term, condition, stipulation, warranty or proviso is limited to cases in which the statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

Materiality a question of fact

(6) The question of materiality in any contract is a question of fact, and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, in the contract or in any agreement or document relating thereto has any force or validity.

Saving

(7) Nothing in this section impairs the effect of any statutory condition required by this Ordinance to be inserted in any contract of insurance, or of any express provision of this Ordinance. R.O. 1958, c. 57, s. 22.

Effect of delivery of policy or receipt for premium

25. (1) Where a contract of insurance other than life insurance has been delivered, it is as binding on the insurer as if the premium had been paid, although it has not in fact been paid and although delivered by an officer or agent of the insurer who had no authority to deliver it.

(2) This section applies notwithstanding any agreement, condition or stipulation to the contrary.

Where premium dishonoured

(3) Where a premium is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note at maturity, the contract shall at the option of the insurer be void.

Deductions

(4) An insurer may deduct from money payable under any contract any indebtedness of the insured on the contract for premium due whether evidenced by note or otherwise given either to the insurer or its agent and held either by the insurer or any other party.

Discount

(5) In making the deduction mentioned in subsection (4), the insurer shall allow to the insured the same discount upon any unpaid premium as he would be entitled to if the unpaid premium were paid in cash at the date of the loss.

(6) Subsection (3) applies in respect of a contract of life insurance unless otherwise provided in the contract. Application

(7) Subsection (4) applies in respect of contracts of life insurance. R.O. 1958, c. 57, s. 23. Idem

26. (1) Every insurer shall, immediately upon receipt of notice of any claim under a contract, forward to the insured or person to whom the insurance money is payable forms upon which to make the proof of loss required under the contract. Insurer to furnish forms

(2) Every insurer who neglects or refuses to comply with subsection (1) commits an offence. Offence

(3) Where an insurer has, within thirty days after notification of loss, adjusted the claim acceptably to the claimant and the adjustment has been duly signed by the claimant or his agent, or where the amount of loss has been determined by arbitration or appraisal pursuant to this Ordinance, the insurer shall be deemed to have complied with this section. R.O. 1958, c. 57, s. 24. Compliance deemed

27. (1) No action shall be brought for the recovery of money payable under a contract until the expiration of When action may be brought under contract

(a) sixty days after proof, in accordance with the provisions of the contract, of the loss or the happening of the event upon which the insurance money is to become payable, or

(b) such shorter period as may be prescribed by any enactment regulating the contracts of the insurer, or as may be fixed by the contract of insurance or otherwise provided in this Ordinance. R.O. 1958, c. 57, s. 25.

28. (1) After the time referred to in section 27 that is applicable in the circumstances, any person who is entitled as beneficiary or by assignment or other derivative title to the insurance money and has the right to receive the same and to give an effectual discharge therefor, may sue for the same in his own name, any rule, stipulation or condition to the contrary notwithstanding. Beneficiary may sue in own name

29. (1) Where the person entitled to receive money due and payable under any contract is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of that jurisdiction, is made to the person, such payment is valid and effectual for all purposes. R.O. 1958, c. 57, s. 27. Payment to payee domiciled or resident abroad

Notice to insured **30.** (1) Subject to any statutory condition, where the manner of giving any notice by an insurer to an insured for any purpose herein is not expressly provided, the notice may be given by mailing it to the address of the insured given in his application for insurance or by delivering it otherwise in writing to the insured.

Notice to insurer **(2)** Subject to any statutory condition, where the manner of giving any written notice to an insurer for any purpose herein is not expressly provided, the notice may be given by letter delivered to an authorized agent of the insurer. R.O. 1958, c. 57, s. 28.

Copy of proposal furnished to insured **31.** (1) Every insurer shall furnish to the insured upon request a true copy of his application or proposal for insurance. R.O. 1958, c. 57, s. 29.

No contract to be inconsistent with Ordinance **32.** (1) No insurer shall make a contract that is inconsistent with the provisions of this Ordinance. R.O. 1958, c. 57, s. 30.

Imperfect compliance **33.** (1) Any act or omission of the insurer that results in imperfect compliance with any provisions of this Ordinance does not render a contract invalid as against the insured. R.O. 1958, c. 57, s. 31.

Insurance against loss through negligence, etc. **34.** (1) An insurer may contract to indemnify an insured against financial loss occasioned by reason of liability to a third person whether or not the loss has been caused by the insured through negligence or while violating any Ordinance or municipal by-law. R.O. 1958, c. 57, s. 32.

Action against insurer where execution against insured unsatisfied **35.** (1) Where a person insured against liability for injury or damage to persons or property of others has failed to satisfy a judgment obtained by a claimant for such injury or damage and an execution against the insured in respect thereof is returned unsatisfied, the execution creditor has a right to action against the insurer to recover an amount not exceeding the amount of the judgment and not exceeding, in any event, the face amount of the policy in the same manner and subject to the same equities as the insured would have if the judgment had been satisfied. R.O. 1958, c. 57, s. 33.

Requirements as to fire and automobile insurance on risks within Territory **36.** (1) No insurer shall undertake any contract of fire or automobile insurance upon real or personal property situated in the Territory or described in any contract as situated in the Territory, except after the contract has been signed or countersigned by a licensed agent who is a resident of the

Territory and who is to receive the commission or some part thereof when the premium stipulated in the contract is paid.

(2) Where subsection (1) is complied with, nothing herein shall be construed to prevent any insurer from issuing policies of fire and automobile insurance at its principal or branch office or general agency covering any matter or thing, real or personal, situate in the Territory.

Issue of contracts at principal office, etc.

(3) Where an insurer issues any policy of fire or automobile insurance upon any matter or thing, real or personal, situated in the Territory, he shall forthwith file a certified copy of the policy with the countersigning agent or with the insured within the Territory.

Certified copy to be filed

(4) This section does not apply in respect of direct insurance covering property in transit that is in the possession and custody of common carriers, or movable property of such common carriers used or employed by them in their business as common carriers.

Application

(5) Any insurer that issues a contract of fire or automobile insurance save as in the manner provided in this section commits an offence.

Offence

(6) In any prosecution under this Ordinance for any contravention of this section, the burden of proving that this section has been complied with is upon the person charged. R.O. 1958, c. 57, s. 34.

Burden of proof

37. (1) No agent shall sign any contract in blank. R.O. 1958, c. 57, s. 35.

Agent's actions restricted

INSURANCE AS COLLATERAL SECURITY

38. (1) A mortgagee shall not accept or be entitled to receive either directly or through his agent or employee, and no officer or employee of a mortgagee shall accept or receive any commission or other remuneration or benefit in consideration of effecting a contract or renewal thereof under which loss, if any, is payable to him as mortgagee.

Insurance as collateral security

(2) No insurer or agent shall pay, allow or give any commission, other remuneration or benefit to a mortgagee or any person in his employ or on his behalf, in consideration of effecting a contract or renewal thereof under which loss, if any, is payable to him as mortgagee.

Payment of commission prohibited

(3) No person who engages in the business of lending money and has an insurance agency or any interest in or

Prohibition against requirements by lender of cancellation of certain policies

connection with an insurance agency, shall require as a condition of the making of any loan that the borrower shall cancel any subsisting policy of insurance and take out other insurance through the lender or through any agency with which he has any interest or connection.

Prohibition against cancellation by trust companies of certain policies

(4) No trust company shall cancel any subsisting policy of insurance issued by an insurer in respect of any property for which the trust company is a trustee unless there is no necessity for the continuation of the insurance and no other insurance of a similar description is taken out in respect of the property during the original term of the cancelled policy.

Offences

(5) Every

- (a) person who contravenes subsection (3),
- (b) trust company that contravenes subsection (4),
- (c) agent who knowingly accepts any proposal or any insurance taken out in contravention of subsection (3) or subsection (4), and
- (d) insurer that issues any contract with actual or constructive notice that it has been negotiated in contravention of subsection (3) or subsection (4),

commits an offence, and if any such person is the holder of a licence he is liable in addition to any other penalty to the suspension or cancellation of his licence. R.O. 1958. c. 57, s. 36.

Payment into Court by insurer

39. (1) Where an insurer cannot obtain sufficient discharge for insurance money for which it admits liability, the insurer may apply to the Court *ex parte* for an order for the payment thereof into Court, and the Court may order the payment to be made upon any terms as to costs and otherwise as the Court directs, and may provide to what fund or name the money shall be credited.

Receipt on payment in a discharge

(2) The receipt of the Clerk of the Court is a sufficient discharge to the insurer for the insurance money paid into Court, and the insurance money shall be dealt with according to the orders of the Court. R.O. 1958, c. 57, s. 37.

Filing of copy of policy, etc., with Commissioner

40. (1) The Commissioner may require an insurer to file with him a copy of any form of policy, any form of application for a policy, or any endorsement, rider or advertising material issued or used by the insurer.

Cases where insurer prohibited from using policy, etc.

(2) Where an insurer issues any policy or uses an application, or endorsement or rider or advertising material that in the opinion of the Commissioner is unfair, fraudulent, unduly restrictive or not in the public interest, he may

prohibit the insurer from issuing or using that form of policy, application, endorsement, rider or advertising material.

(3) Any insurer that, after being prohibited pursuant to subsection (2), uses any prohibited policy, application, endorsement, rider or advertising material, commits an offence. R.O. 1958, c. 57, s. 38.

PART III

FIRE INSURANCE

INTERPRETATION

41. (1) In this Part

“Contract” means a contract of insurance against loss or damage to property in the Territory caused by fire, lightning or explosion and includes a policy, certificate, interim receipt, renewal receipt or written evidence in the contract, whether under seal or not and a binding oral agreement;

“insured” means a person who makes a contract with an insurer. R.O. 1958, c. 57, s. 39; 1969 (1st) c. 4, s. 1.

APPLICATION OF PART

42. (1) This Part applies to every contract of insurance made in the Territory, except a contract

- (a) of aircraft, automobile, boiler and machinery, inland transportation, marine, plate glass, sprinkler leakage and theft insurance;
- (b) the subject matter of which is rent, charges or loss of profits; or
- (c) of insurance in which fire is an incidental peril to the coverage provided.

(2) Notwithstanding subsection (1), this Part applies to insurance of an automobile against loss or damage by fire under a policy of fire insurance. R.O. 1958, c. 57, s. 40; 1959 (1st) c. 4, s. 1.

COVERAGE

43. (1) Subject to subsection (4) and to paragraph 54(a), a contract to which this Part applies shall be deemed to cover the insured property against

- (a) fire (whether resulting from explosion or otherwise) not occasioned by or happening through
 - (i) in the case of goods, their undergoing any process involving the application of heat,
 - (ii) riot, civil commotion, war, invasion, act of foreign enemy or other hostilities (whether war be declared or not), or civil war, rebellion, revolution or insurrection;
- (b) lightning, other than destruction or loss to electrical devices or appliances caused by lightning or other electrical currents unless the fire originates outside the article itself and then only for such destruction or damage as occurs from that fire; and
- (c) an explosion (not occasioned by or happening through any of the perils specified in subparagraph (ii) or paragraph (a)) of natural gas, coal gas or manufactured gas in a building not forming part of a gas works, and whether fire ensues therefrom or not.

Coverage where damage from nuclear reaction

(2) A contract to which this Part applies covers the insured property against loss or damage caused by fire or explosion described in subsection (1) resulting from a nuclear reaction or nuclear radiation, but, unless the contract otherwise specifically provides, does not cover the insured property against loss or damage caused by heat or energy alone that was created by a nuclear reaction or nuclear radiation.

Radioactive contamination

(3) Unless a contract to which this Part applies otherwise specifically provides, it does not cover the insured property against loss or damage caused by contamination by radioactive material directly or indirectly resulting from fire, lightning or explosion as described in subsection (1).

Extend Insurance

(4) Nothing in subsection (1) precludes an insurer giving more extended insurance against the perils mentioned therein, but where more extended insurance is given, this Part does not apply to that insurance.

Power to extend meaning of "lightning" to live stock contract

(5) An insurer may include in its fire insurance contract a clause or endorsement providing that in the case of livestock insured against death or injury caused by fire or lightning, the word "lightning" is deemed to include other electrical currents. R.O. 1958, c. 57, s. 41; 1959 (1st) c. 4, s. 1.

Coverage where property removed

44. (1) Where property insured under a contract covering a specified place is removed necessarily to prevent loss or damage or further loss or damage to it

- (a) the contract of insurance shall for a period of seven days or for the unexpired term of the contract, whichever is the lesser, cover the property removed and any property remaining in the original location to the extent that the insurance under the contract exceeds the amount of the insurer's liability for the loss actually incurred; and
- (b) the amount payable under the contract in respect of loss or damage to that property shall be in the proportion that the value of the property lost or destroyed bears to the value of all the property. R.O. 1958, c. 57, s. 42; 1959 (1st) c. 4, s. 1.

CONTRACT OF INSURANCE

45. (1) No contract shall be made for a term exceeding three years, but a contract may be renewed from time to time for a further period not exceeding three years by the delivery of a renewal receipt identifying the policy by number, date or otherwise, or by a new premium note. Terms of contract

(2) No insurer shall make a contract covering property situated outside the limits of a municipality for a term exceeding twelve months without a written application therefor, signed by the applicant, or, in case of the absence of the applicant or his inability to make the application, by his agent or by a person having an insurable interest in the property. Application for fire insurance

(3) Every application referred to in subsection (2) shall set forth Contents of application

- (a) the name, address and occupation of the applicant;
- (b) the description, location and occupancy of the property to be insured;
- (c) the value of the property;
- (d) particulars of any mortgage, lien or other encumbrance thereon;
- (e) the purpose for which and the location in which any movable property is deposited or used;
- (f) particulars of all previous fire claims made by the applicant and the name of every company against which the claims were made;
- (g) whether an insurer has cancelled any fire insurance or refused fire insurance to the applicant; and
- (h) such other information as the insurer may require. R.O. 1958, c. 57, s. 43; 1959 (1st) c. 4, s. 1.

Form of contract **46.** (1) Where an application for insurance is made in writing, any policy sent to the insured shall be deemed to be intended to be in accordance with the terms of the application, unless the insurer notifies the insured in writing of the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy. R.O. 1958, c. 57, s. 44; 1959 (1st) c. 4, s. 1.

Mortgages and other payees **47.** (1) Where the loss, if any, under a contract has, with the consent of the insurer, been made payable to a person other than the insured, the insurer shall not cancel or alter the policy to the prejudice of that person without notice to him.

Form of notice (2) The time and manner of giving the notice under subsection (1) shall be the same as for a notice of cancellation to the insured under the statutory conditions in the contract. R.O. 1958, c. 57, s. 45; 1959 (1st) c. 4, s. 1.

Statutory conditions **48.** (1) The conditions set forth in Part I of Schedule I shall be deemed to be part of every contract in force in the Territory and shall be printed on every policy under the heading "Statutory Conditions" and no variation or omission thereof or addition thereto shall be binding on the insured.

Interpretation (2) In this section, "policy" does not include an interim receipt or binder. R.O. 1958, c. 57, s. 46; 1959 (1st) c. 4, s. 1.

49. (1) Where

- Naming of appraisers under statutory condition 11**
- (a) a party to a contract fails to name an appraiser under statutory condition 11 of Part I of Schedule I within seven clear days after being served with written notice to do so,
 - (b) the appraisers fail to agree upon an umpire within fifteen days after their appointment, or
 - (c) an appraiser or umpire refuses to act or is incapable of acting or dies,

a judge may, upon the application of the insured or of the insurer, appoint an appraiser or umpire, as the case may be. R.O. 1958, c. 57, s. 47; 1959 (1st) c. 4, s. 1.

50. (1) A contract containing

- (a) a deductible clause;
- (b) a co-insurance, average or similar clause; or

- (c) a clause limiting recovery by the insured to a specified percentage of the value of any property insured at the time of loss, whether or not that clause is conditional or unconditional,

shall have printed or stamped on its face in red ink the words "This policy contains a clause which may limit the amount payable", and unless those words are so printed or stamped the clause is not binding upon the insured. R.O. 1958, c. 57, s. 48; 1959 (1st) c. 4, s. 1; 1962 (5th) c. 7, s. 1.

MISCELLANEOUS

51. (1) Where, on the happening of any loss or damage to the property insured, there is in force more than one contract covering the same interest, the insurers under the respective contracts shall, unless they otherwise expressly agree in writing, each be liable to the insured for its rateable proportion of the loss.

Rateable contribution

(2) For the purpose of subsection (1), a contract shall be deemed to be in force notwithstanding any term thereof that the policy shall not cover, come into force, attach, or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

Effect of policy may not be postponed

(3) Subsection (1) does not affect the validity of

Certain restrictions valid

- (a) any division of the sum insured into separate items,
- (b) any limits of insurance on specified property,
- (c) a clause described in section 50, or
- (d) a contract condition limiting or prohibiting the having or placing of other insurance.

(4) Subsection (1) does not affect the operation of any deductible clause and where

Ascertainment of rateable proportions

- (a) one contract contains a deductible clause, the pro rata proportion of the liability of the insurer under that contract shall be first ascertained without regard to the clause and then the clause shall be applied only to affect the amount of recovery under that contract; and
- (b) more than one contract contains a deductible clause, the pro rata proportion of the liability of the insurers under those contracts shall be first ascertained without regard to the deductible clauses and then the highest deductible shall be pro rated among the insurers with deductibles and these pro rated amounts shall affect the amount of recovery under those contracts.

Insurance on
identified
articles

(5) Notwithstanding subsection (1), insurance on identified articles shall be a first loss insurance against all other insurance. R.O. 1958, c. 57, s. 49; 1959 (1st) c. 4, s. 1.

Relief from
forfeiture

52. (1) Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured and a consequent forfeiture or avoidance of the insurance, in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may make an order relieving against the forfeiture or avoidance on such terms as may seem just. R.O. 1958, c. 57, s. 50; 1959, c. 4, s. 1.

Proof of loss

53. (1) The proof of loss form furnished by an insurer pursuant to section 26 shall, for the purposes of this Part, be in Form A of Part I of Schedule I and in forwarding the form to the insured the insurer shall attach thereto a copy of the wording of the policy giving the description and location of the property insured. R.O. 1958, c. 57, s. 51; 1959 (1st) c. 4, s. 1.

Special stipulations

54. (1) Where a contract,

- (a) excludes any loss that would otherwise fall within the coverage prescribed by section 43, or
- (b) contains any stipulation, condition or warranty that is or may be material to the risk including a provision in respect to the use, condition, location or maintenance of the insured property.

the exclusion, stipulation, condition or warranty shall not be binding upon the insured if it is held to be unjust or unreasonable by the court before which a question relating thereto is tried. R.O. 1958, c. 57, s. 52; 1959 (1st) c. 4, s. 1.

Waiver of term
or condition

55. (1) No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part unless the waiver is clearly expressed in writing and signed by a person authorized for that purpose by the insurer.

Idem.

(2) Neither the insurer nor the insured shall be deemed to have waived any term or condition of a contract by any act relating to the appraisal of the amount of loss or to the delivery and completion of proofs, or to the investigation or adjustment of any claim under the contract. 1959 (1st) c. 4, s. 1.

Subrogation

56. (1) Upon making any payment or assuming liability therefor under a contract of fire insurance, the insurer shall be subrogated to all rights of recovery of the insured against

any person, and may bring action in the name of the insured to enforce these rights.

(2) Where the amount recovered after deducting therefrom the costs of recovery is not sufficient to provide a complete indemnity for the loss or damage suffered, it shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively. 1959 (1st) c. 4, s. 1.

Where amount recovered is not sufficient to provide indemnity

PART IV

LIFE INSURANCE

INTERPRETATION

57. (1) In this Part

Definitions

“application” means an application for insurance or for the reinstatement of insurance;

“application”

“beneficiary” means a person, other than the insured or his personal representative, to whom or for whose benefit insurance money is made payable in a contract or by a declaration;

“beneficiary”

“contract” means a contract of life insurance;

“contract”

“court” means the Territorial Court or a judge thereof;

“court”

“creditor’s group insurance” means insurance effected by a creditor in respect of the lives of his debtors whereby the lives of the debtors are insured severally under a single contract;

“creditor’s group insurance”

“declaration” means an instrument signed by the insured,

“declaration”

- (i) with respect to which an endorsement is made on the policy, or
- (ii) that identifies the contract, or
- (iii) that describes the insurance or insurance fund or a part thereof, in which he designates, or alters or revokes the designation of, his personal representative or a beneficiary as one to whom or for whose benefit insurance money is to be payable;

“family insurance” means insurance whereby the lives of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;

“family insurance”

"group insurance"	"group insurance" means insurance, other than creditor's group insurance and family insurance, whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person;
"group life insured"	"group life insured" means a person whose life is insured by a contract of group insurance but does not include a person whose life is insured under the contract as a person dependent upon, or related to, him;
"instrument"	"instrument" includes a will;
"insurance"	"insurance" means life insurance;
"insured"	"insured" <ul style="list-style-type: none"> (i) in the case of group insurance, means, in the provisions of this Part relating to the designation of beneficiaries and the rights and status of beneficiaries, the group life insurance, and (ii) in all other cases, means the person who makes a contract with an insurer;
"life insurance"	"life insurance" includes disability insurance and accidental death insurance;
"will"	"will" includes a codicil. R.O. 1958, c. 57, s. 53; 1967 (1st) c. 15, s. 3.

APPLICATION OF PART

Application	58. (1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to a contract made in the Territory on or after the day on which this section comes into force, and, subject to subsections (2) and (3), applies to a contract made in the Territory before that day.
Beneficiary for value	(2) The rights and interests of a beneficiary for value under a contract that was in force immediately prior to the day on which this section comes into force are those provided in Part IV of the <i>Insurance Ordinance</i> then in force.
Preferred beneficiary	(3) Where the person who would have been entitled to the payment of insurance money, if the money had become payable immediately prior to the day on which this section comes into force, was a preferred beneficiary within the meaning of Part IV of the <i>Insurance Ordinance</i> then in force, the insured may not, except in accordance with that Part, <ul style="list-style-type: none"> (a) alter or revoke the designation of a beneficiary; or (b) assign, exercise rights under or in respect of, surrender or otherwise deal with the contract;

but this subsection does not apply after a time at which the insurance money, if it were then payable, would be payable wholly to a person other than a preferred beneficiary within the meaning of that Part. R. O. 1958, c. 57, s. 54; 1967 (1st) c. 15, s. 3.

59. (1) In the case of a contract of group insurance made with an insurer authorized to transact insurance in the Territory at the time the contract was made, this Part applies in determining

Application to group insurance contract

- (a) the rights and status of beneficiaries if the group life insured was resident in the Territory at the time he became insured; and
- (b) the rights and obligations of the group life insured if he was resident in the Territory at the time he became insured. R.O. 1958, c. 57, s. 55; 1967 (1st) c. 15, s. 3.

ISSUANCE OF POLICY AND CONTENTS THEREOF

60. (1) An insurer entering into a contract shall issue a policy.

Policy to be issued

- (2) Subject to subsection (3), the provisions in
 - (a) the application,
 - (b) the policy,
 - (c) any document attached to the policy when issued, and
 - (d) any amendment to the contract agreed upon in writing after the policy is issued,

Contents of contract

constitute the entire contract.

(3) In the case of a contract made by a fraternal society, the policy, the Ordinance or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant constitute the entire contract.

Contents of fraternal contract

(4) A copy of the application for the contract shall, upon the request of the insured or the claimant under the contract, be furnished by the insurer to the insured or claimant, as the case may be. R.O. 1958, c. 57, s. 56; 1967 (1st) c. 15, s. 3.

Copy of application

61. (1) This section does not apply to

- (a) a contract of group insurance;
- (b) a contract of creditor's group insurance; or
- (c) a contract made by a fraternal society.

Non-application of section

Particulars
required in
policy

(2) An insurer shall set forth the following particulars in the policy :

- (a) the name or a sufficient description of the insured and of the person whose life is insured ;
- (b) the amount, or the method of determining the amount, of the insurance money payable, and the conditions under which it becomes payable ;
- (c) the amount, or the method of determining the amount, of the premium and the period of grace, if any, within which it may be paid ;
- (d) whether the contract provides for participation in a distribution of surplus or profits that may be declared by the insurer ;
- (e) the conditions upon which the contract may be reinstated if it lapses ; and
- (f) the options, if any,
 - (i) surrendering the contract for cash ;
 - (ii) of obtaining a loan or an advance payment of the insurance money ; and
 - (iii) of obtaining paid-up or extended insurance. R.O. 1958. c. 57, s. 57 ; 1967 (1st) c. 15, s. 3.

Particulars
required in
group or credi-
tor's group
policy

62. (1) In the case of a contract of group insurance or of creditor's group insurance, an insurer shall set forth the following particulars in the policy :

- (a) the name or a sufficient description of the insured ;
- (b) the method of determining the persons whose lives are insured ;
- (c) the amount, or the method of determining the amount, of the insurance money payable, and the conditions under which it becomes payable ;
- (d) the period of grace, if any, within which the premium may be paid ; and
- (e) whether the contract provides for participation in a distribution of surplus or profits that may be declared by the insurer. R.O. 1985, c. 57, s. 58 ; 1967 (1st) c. 15, s. 3.

Certificate and
particulars

63. (1) In the case of a contract of group insurance, an insurer shall issue, for delivery by the insured to each group life insured, a certificate or other document in which is set forth the following particulars :

- (a) the name of the insurer and an identification of the contract ;

- (b) the amount, or the method of determining the amount, of insurance on the group life insured and on any person whose life is insured under the contract as a person dependent upon or related to him; and
- (c) the circumstances in which the insurance terminates and the rights, if any, upon such termination, of the group life insured and of any person whose life is insured under the contract as a person dependent upon, or related to, him. R.O. 1958, c. 57, s. 59; 1967 (1st) c. 15, s. 3.

64. (1) Subject to subsection (2), where at the time a contract would otherwise take effect the insured has no insurable interest, the contract is void. Insurable interest required

- (2) A contract is not void for lack of insurable interest, Exceptions
 - (a) if it is a contract of group insurance; or
 - (b) if the person whose life is insured has consented in writing to the insurance being placed on his life.

(3) Where the person whose life is insured is under the age of sixteen years, consent to insurance being placed on his life may be given by one of his parents or by a person standing in *loco parentis* to him. R.O. 1958, c. 57, s. 60; 1967 (1st) c. 15, s. 3. Consent for person under sixteen years

65. (1) Without restricting the meaning of the expression "insurable interest", a person has an insurable interest in his own life and in the life of Who has insurable interest

- (a) his child or grandchild;
- (b) his spouse;
- (c) any person upon whom he is wholly or in part dependent for, or from whom he is receiving, support or education;
- (d) his employee; and
- (e) any person in the duration of whose life he has a pecuniary interest. R.O. 1958, c. 57, s. 61; 1967 (1st) c. 15, s. 3.

66. (1) Subject to any provision to the contrary in the application or the policy, a contract does not take effect unless, When contract does not take effect

- (a) the policy is delivered to an insured, his assign or agent, or to a beneficiary;
- (b) payment of the first premium is made to the insurer or its authorized agent; and

(c) no change has taken place in the insurability of the life to be insured between the time the application was completed and the time the policy was delivered.

Deemed to have been delivered

(2) Where a policy is issued on the terms applied for and is delivered to an agent of the insurer for unconditional delivery to a person referred to in paragraph (1)(a) it shall be deemed, but not to the prejudice of the insured, to have been delivered to the insured. R.O. 1958, c. 57, s. 62; 1967 (1st) c. 15, s. 3.

When promise to pay not fulfilled

67. (1) Where a cheque or other bill of exchange, or a promissory note or other written promise to pay, is given for the whole or part of a premium and payment is not made according to its tenor, the premium or part thereof shall be deemed not to have been paid.

When remittance deemed to be received

(2) Where a remittance for or on account of a premium is sent in a registered letter to an insurer, the remittance shall be deemed to have been received at the time of the registration of the letter. R.O. 1958, c. 57, s. 63, 1967 (1st) c. 15, s. 3.

Others who may pay premium

68. (1) Except in the case of group insurance, an assignee of a contract, a beneficiary or a person acting on behalf of one of them or of the insured may pay any premium that the insured is entitled to pay.

Period of grace

(2) Where a premium, other than the initial premium, is not paid at the time it is due, the premium may be paid within a period of grace of

(a) thirty days or, in the case of an industrial contract, twenty-eight days, from and excluding the day on which the premium is due; or

(b) the number of days, if any, specified in the contract for payment of an overdue premium,

whichever is the longer period.

When contract matures in grace period

(3) Where the happening of the event upon which the insurance money becomes payable occurs during the period of grace and before the overdue premium is paid, the contract shall be deemed to be in effect as if the premium had been paid at the time it was due, but the amount of the premium, together with interest at the rate specified in the contract, but not exceeding six percent per annum, and the balance, if any, of the current year's premium may be deducted from the insurance money. R.O. 1958, c. 57, s. 64; 1967 (1st) c. 15, s. 3.

69. (1) An applicant for insurance and a person whose life is to be insured shall each disclose to the insurer in the application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other. Disclosure of material facts

(2) Subject to section 70, a failure to disclose or a misrepresentation of, such a fact renders the contract voidable by the insurer. R.O. 1958, c. 57, s. 65; 1967 (1st) c. 15, s. 3. Contract voidable

70. (1) This section does not apply to a misstatement of the age or to disability insurance. Application

(2) Subject to subsection (3), where a contract has been in effect for two years during the lifetime of the person whose life is insured, a failure to disclose, or a misrepresentation of, a fact required to be disclosed by section 69 does not, in the absence of fraud, render the contract voidable. When non-disclosure or misrepresentation not voidable

(3) In the case of a contract of group insurance, a failure to disclose, or a misrepresentation of, such a fact in respect of a person whose life is insured under the contract does not render the contract voidable, but, if evidence of insurability is specifically requested by the insurer, the insurance in respect of that person is voidable by the insurer unless it has been in effect for two years during the lifetime of that person in which event it is not, in the absence of fraud, voidable. R.O. 1958, c. 57, s. 66; 1967 (1st) c. 15, s. 3. In case of group insurance

71. (1) Where an insurer fails to disclose, or misrepresents a fact material to the insurance, the contract is voidable by the insured, but, in the absence of fraud, the contract is not by reason of such failure or misrepresentation voidable after the contract has been in effect for two years. R.O. 1958, c. 57, s. 67; 1967 (1st) c. 15, s. 3. When contract voidable for non-disclosure or misrepresentation

72. (1) This section does not apply to a contract of group insurance or of creditor's group insurance. Application

(2) Subject to subsection (3), where the age of a person whose life is insured is misstated to the insurer, the insurance money provided by the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age. Misstatement of age of insured

(3) Where a contract limits the insurable age, and the correct age of the person whose life is insured, at the date of the application exceeds the age so limited, the contract is, Where insurable age is limited

during the lifetime of that person but not later than five years from the date the contract takes effect, voidable by the insurer within sixty days after it discovers the error. R.O. 1958, c. 57, s. 68; 1967 (1st) c. 15, s. 3.

Misstatement of age in case of group insurance

73. (1) In the case of a contract of group insurance or of creditor's group insurance, a misstatement to the insurer of the age of a person whose life is insured does not of itself render the contract voidable, and the provisions, if any, of the contract with respect to age or misstatement of age apply. R. O. 1958, c. 57, s. 69; 1967 (1st) c. 15, s. 3.

Suicide cover

74. (1) Where a contract contains an undertaking, express or implied, that insurance money will be paid if a person whose life is insured commits suicide, the undertaking is lawful and enforceable.

Suicide limitation

(2) Where a contract provides that in case a person whose life is insured commits suicide within a certain period of time the contract is void or the amount payable under it is reduced, if the contract lapses and is subsequently reinstated on one or more occasions, the period of time commences to run from the date of the latest reinstatement. R. O. 1958, c. 57, s. 70; 1967 (1st) c. 15, s. 3.

Application

75. (1) This section does not apply to a contract of group insurance or to a contract made by a fraternal society.

Reinstatement of contract

(2) Where a contract lapses and the insured within two years applies for reinstatement of the contract, if within that time he

(a) pays the overdue premiums and other indebtedness under the contract to the insurer, together with interest at the rate specified in the contract, but not exceeding six percent per annum, compounded annually, and

(b) produces

(i) evidence satisfactory to the insurer of the good health, and

(ii) other evidence satisfactory to the insurer of the insurability,

of the person whose life is insured,

the insurer shall reinstate the contract.

Exception

(3) Subsection (2) does not apply where the cash surrender value has been paid or an option of taking paidup or extended insurance has been exercised.

(4) Sections 69 and 70 apply *mutatis mutandis* to reinstatement of a contract. R. O. 1958, c. 57, s. 71; 1967 (1st) c. 15, s. 3. Application of sections 69 and 70

DESIGNATION OF BENEFICIARIES

76. (1) An insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money. Designation of beneficiaries

(2) Subject to section 77, the insured may from time to time alter or revoke the designation by declaration. Changing of designation

(3) A designation in favour of the "heirs", "next of kin" or "estate" of the insured, or the use of words of like import in a designation shall be deemed to be a designation of the personal representative of the insured. R.O. 1958, c. 57, s. 72; 1967 (1st) c. 15, s. 3. Designation of estate or like designation

77. (1) An insured may in a contract, or by a declaration, other than a declaration that is part of a will, filed with the insurer at its head or principal office in Canada during the life-time of the person whose life is insured, designate a beneficiary irrevocably and in that event the insured, while the beneficiary is living, may not alter or revoke the designation without the consent of the beneficiary and the insurance money is not subject to the control of the insured or of his creditors and does not form part of his estate. Irrevocable designation

(2) Where the insured purports to designate a beneficiary irrevocably in a will or in a declaration that is not filed as provided in subsection (1), the designation has the same effect as if the insured had not purported to make it irrevocable. R.O. 1958, c. 57, s. 73; 1967 (1st) c. 15, s. 3. Effect of failure to file

78. (1) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will, or that the designation is invalid as a bequest under the will. Designation in will

(2) Notwithstanding the *Wills Ordinance*, a designation in a will is of no effect against a designation made later than the making of the will. Later designation

(3) Where a designation is contained in a will, if subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked. Revocation of will

(4) Where a designation is contained in an instrument that purports to be a will, if subsequently the instrument if valid as a will would be revoked by operation of law or otherwise, Revocation by operation of law

the designation is thereby revoked. R.O. 1958, c. 57, s. 74; 1967 (1st) c. 15, s. 3.

Appointment of trustee for beneficiary

79. (1) An insured may in a contract or by a declaration appoint a trustee for a beneficiary and may alter or revoke the appointment by a declaration.

Discharge of life insurer

(2) A payment made by an insurer to a trustee for a beneficiary discharges the insurer to the extent of the payment. R.O. 1958, c. 57, s. 75; 1967 (1st) c. 15, s. 3.

Where a beneficiary predeceases life insured

80. (1) Where a beneficiary predeceases the person whose life is insured, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by a declaration, the share is payable

- (a) to the surviving beneficiary;
- (b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal share; or
- (c) if there is no surviving beneficiary, to the insured or his personal representative.

Co-beneficiaries

(2) Where two or more beneficiaries are designated otherwise than alternatively, but no division of the insurance money is made, the insurance money is payable to them in equal shares. R.O. 1985, c. 57, s. 76; 1967 (1st) c. 15, s. 3.

Rights of beneficiary to enforce

81. (1) A beneficiary may enforce for his own benefit, and a trustee appointed pursuant to section 79 may enforce as trustee, the payment of insurance money made payable to him in the contract or by a declaration and in accordance with the provisions thereof, but the insurer may set up any defence that it could have set up against the insured or his personal representative. R.O. 1958, c. 57, s. 77; 1967 (1st) c. 15, s. 3.

Insurance moneys not part of estate of insured

82. (1) Where a beneficiary is designated, the insurance money, from the time of the happening of the event upon which the insurance money becomes payable, is not part of the estate of the insured and is not subject to the claims of the creditors of the insured.

Protection from execution or seizure

(2) While a designation in favour of a spouse, child, grandchild or parent of a person whose life is insured, or any of them, is in effect the rights and interests of the insured in the insurance money and in the contract are exempt from execution or seizure. R.O. 1958, c. 57, s. 78; 1967 (1st) c. 15, s. 3.

DEALINGS WITH CONTRACT DURING LIFETIME OF INSURED

83. (1) Where a beneficiary

- (a) is not designated irrevocably, or
- (b) is designated irrevocably but has attained the age of twenty-one years and consents,

the insured may assign, exercise rights under or in respect of, surrender or otherwise deal with the contract as provided therein or in this Part or as may be agreed upon with the insurer. R.O. 1958, c. 57, s. 79; 1967 (1st) c. 15, s. 3.

Rights of insured in respect of contract

84. (1) Notwithstanding the designation of a beneficiary irrevocably, the insured is entitled while living to the dividends or bonuses declared on a contract, unless the contract otherwise provides.

Right to dividends or bonus under contract

(2) Unless the insured otherwise directs, the insurer may apply the dividends or bonuses declared on the contract for the purpose of keeping the contract in force. R.O. 1958, c. 57, s. 80; 1967 (1st) c. 15, s. 3.

Applying dividends and bonus to contract

85. (1) Notwithstanding the *Wills Ordinance*, where in a contract or in an agreement in writing between an insurer and an insured it is provided that a person named in the contract or in the agreement has, upon the death of the insured, the rights and interests of the insured in the contract,

Assigning insurer's rights to third parties on death of insurer

- (a) the rights and interests of the insured in the contract do not, upon the death of the insured, form part of his estate; and
- (b) upon the death of the insured, the person named in the contract or in the agreement has the rights and interests given to the insured by the contract and by this Part and shall be deemed to be the insured.

(2) Where the contract or agreement provides that two or more persons named in the contract or in the agreement shall, upon the death of the insured, have successively, on the death of each of them, the rights and interests of the insured in the contract, this section applies successively, *mutatis mutandis*, to each of such persons and to his rights and interests in the contract.

Successive assignees of contract

(3) Notwithstanding any nomination made pursuant to this section, the insured may, prior to his death, assign, exercise rights under or in respect of, surrender or otherwise deal with the contract as if the nomination had not been made, and may alter or revoke the nomination by agreement

Alteration or revocation of nomination

in writing with the insurer. R.O. 1958, c. 57, s. 81; 1967 (1st) c. 15, s. 3.

Priorities as between assignees and beneficiaries

86. (1) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada, he has priority of interest as against

- (a) any assignee other than the one who gave notice earlier in like manner; and
- (b) a beneficiary other than one designated irrevocably as provided in section 77 prior to the time the assignee gave notice to the insurer of the assignment in the manner prescribed in this subsection.

Assignment by way of security

(2) Where a contract is assigned as security, the rights of a beneficiary under the contract are affected only to the extent necessary to give effect to the rights and interests of the assignee.

Unconditional and absolute assignment

(3) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests given to the insured by the contract and by this Part and shall be deemed to be the insured.

Non-assignability clause is void

(4) A provision in a contract to the effect that the rights or interests of the insured, or, in the case of group insurance, the group life insured, are not assignable is valid. R.O. 1958, c. 57, s. 82; 1967 (1st) c. 15, s. 3.

Rights of group life insured to enforce contract

87. (1) A group life insured may in his own name enforce a right given to him under a contract, subject to any defence available to the insurer against him or against the insured. R.O. 1958, c. 57, s. 83; 1967 (1st) c. 15, s. 3.

MINORS

Capacity of minor of insured

88. (1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of twenty-one years

- (a) to make an enforceable contract; and
- (b) in respect of a contract. R.O. 1958, c. 57, s. 84; 1967 (1st) c. 15, s. 3.

Right of minor to receive insurance

89. (1) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of twenty-one years to receive insurance money payable to him and to give

a discharge therefor. R.O. 1958, c. 57, s. 85; 1967 (1st) c. 15, s. 3.

PROCEEDINGS UNDER CONTRACT

90. (1) Where an insurer receives sufficient evidence of Payment of insurance money

- (a) the happening of the event upon which insurance money becomes payable,
- (b) the age of the person whose life is insured,
- (c) the right of the claimant to receive payment, and
- (d) the name and age of the beneficiary, if there is a beneficiary,

it shall, within thirty days after receiving the evidence, pay the insurance money to the person entitled thereto. R.O. 1958, c. 57, s. 86; 1967 (1st) c. 15, s. 3.

91. (1) Subject to subsection (4), insurance money is payable in the Territory. Where insurance money payable

(2) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars. Canadian money

(3) Where a person entitled to receive insurance money is not domiciled in the Territory, the insurer may pay the insurance money to that person or to any other person who is entitled to receive it on his behalf by the law of the domicile of the payee. Where payee domiciled out of Territory

(4) In the case of a contract of group insurance, insurance money is payable in the province or territory of Canada in which the group life insured was resident at the time he became insured. R.O. 1958, c. 57, s. 87; 1967 (1st) c. 15, s. 3. Payment under group insurance contract

92. (1) Regardless of the place where a contract was made, an action on it may be brought in the court by a resident of the Territory if the insurer was authorized to transact insurance in the Territory at the time the contract was made or at the time the action is brought. R.O. 1958, c. 57, s. 88; 1967 (1st) c. 15, s. 3. Where action on contract may be brought

93. (1) Subject to subsection (2), an action or proceeding against an insurer for the recovery of insurance money shall not be commenced more than two years after the furnishing of the evidence required by section 90 or more than six years after the happening of the event upon which the insurance money becomes payable, whichever period first expires. Limitation of actions for recovery of insurance moneys

Action following declaration of presumption of death

(2) Where a declaration has been made under section 96, an action or proceeding to which reference is made in subsection (1) shall not be commenced more than two years after the date of the declaration. R.O. 1958, c. 57, s. 89; 1967 (1st) c. 15, s. 3.

Instrument affecting right of payee to insurance

94. (1) Until an insurer receives at its head or principal office in Canada an instrument or an order of a court affecting the right to receive insurance money, or a notarial copy, or a copy verified by statutory declaration, of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there were no such instrument or order.

Affects only insurer

(2) Subsection (1) does not affect the rights or interests of any person other than the insurer. R.O. 1958, c. 57, s. 90; 1967 (1st) c. 15, s. 3.

Declaration of sufficiency of evidence furnished

95. (1) Where an insurer admits the validity of the insurance but does not admit the sufficiency of the evidence required by section 90 and there is no other question in issue except a question under section 96, the insurer or the claimant may, before or after action is brought and upon at least thirty days' notice, apply to the court for a declaration as to the sufficiency of the evidence furnished, and the court may make the declaration or may direct what further evidence shall be furnished and on the furnishing thereof may make the declaration or, in special circumstances, may dispense with further evidence. R.O. 1958, c. 57, s. 91; 1967 (1st) c. 15, s. 3.

Declaration as to presumption of death

96. (1) Where a claimant alleges that the person whose life is insured should be presumed to be dead by reason of his not having been heard of for seven years, and there is no other question in issue except a question under section 95, the insurer or the claimant may, before or after action is brought and upon at least thirty days' notice apply to the court for a declaration as to presumption of death and the court may make the declaration. R.O. 1958, c. 57, s. 92; 1967 (1st) c. 15, s. 3.

Order respecting payment

97. (1) Upon making a declaration under section 95 or 96, the court may make such order respecting the payment of the insurance money and respecting costs as it deems just and, subject to section 99, a declaration or direction or order made under this subsection is binding upon the applicant and upon all persons to whom notice of the application has been given.

(2) A payment made under an order made under subsection (1) discharges the insurer to the extent of the amount paid. R.O. 1958, c. 57, s. 93; 1967 (1st) c. 15, s. 3. Insurer discharged

98. (1) Unless the court otherwise orders, an application made under section 95 or 96 operates as a stay of any pending action with respect to the insurance money. R.O. 1958, c. 57, s. 94; 1967 (1st) c. 15, s. 3. Stay of action

99. (1) An appeal lies to the Court of Appeal from any declaration, direction or order made under section 95, section 96 or subsection 97 (1). R.O. 1958, c. 57, s. 95; 1967 (1st) c. 15, s. 3. Appeal

100. (1) Where the court finds that the evidence furnished under section 90 is not sufficient or that a presumption of death is not established, it may order that the matters in issue be decided in an action brought or to be brought, or may make such other order as it deems just respecting further evidence to be furnished by the claimant, publication of advertisements, further inquiry or any other matter of respecting costs. R.O. 1958, c. 57, s. 96; 1967 (1st) c. 15, s. 3. Order to ascertain facts

101. (1) Where an insurer admits liability for insurance money and it appears to the insurer that Payment of insurance moneys into court

(a) there are adverse claimants,

(b) the whereabouts of a person entitled is unknown, or

(c) there is no person capable of giving and authorized to give a valid discharge therefor, who is willing to do so,

the insurer may, at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, apply to the court *ex parte* for an order for payment of the money into court, and the court may upon such notice, if any, as it thinks necessary, make an order accordingly. R.O. 1958, c. 57, s. 97; 1967 (1st) c. 15, s. 3.

102. (1) Unless a contract or a declaration otherwise provides where the person whose life is insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 80(1) as if the beneficiary had predeceased the person whose life is insured. R.O. 1958, c. 57, s. 98; 1967 (1st) c. 15, s. 3. Commorientes rule

103. (1) Subject to subsections (2) and (3), where insurance money is payable in instalments and a contract, or an instrument signed by the insured and delivered to the insurer, Payment by instalments and commutation or alienation of interest

provides that a beneficiary has not the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not unless the insured subsequently directs otherwise in writing, commute the instalments or pay them to any person other than the beneficiary, and the instalments are not in the hands of the insurer, subject to any legal process except an action to recover the value of necessities supplied to the beneficiary or his infant children.

Commutation or alienation may be authorized by court

(2) A court may, upon the application of a beneficiary and upon at least ten days' notice, declare that in view of special circumstances

- (a) the insurer may, with the consent of the beneficiary, commute instalments of insurance money; or
- (b) the beneficiary may alienate or assign his interest in the insurance money.

Commutation by personal representative of beneficiary

(3) After the death of the beneficiary, his personal representative may, with the consent of the insurer, commute any instalments of insurance money payable to the beneficiary.

Instalments

(4) In this section "instalments" includes insurance money held by the insurer under section 104. R.O. 1958, c. 57, s. 99; 1967 (1st) c. 15, s. 3.

How insurer may hold insurance moneys

104. (1) An insurer may hold insurance money

- (a) subject to the order of an insured or a beneficiary, or
- (b) upon trusts or other agreements for the benefit of the insured or the beneficiary,

as provided in the contract, by an agreement in writing to which it is a party, or by a declaration, with interest at a rate agreed upon therein or, where no rate is agreed upon, at the rate declared from time to time by the insurer in respect of insurance money so held by it.

Exception

(2) The insurer is not bound to hold insurance money as provided in subsection (1) under the terms of a declaration to which it has not agreed in writing. R.O. 1958, c. 57, s. 100; 1967 (1st) c. 15, s. 3.

Court order on default of insurer to pay

105. (1) Where an insurer does not within thirty days after receipt of the evidence required by section 90 pay the insurance money to some person competent to receive it or into court, the court may, upon application of any person, order that the insurance money or any part thereof be paid into court, or may make such other order as to the distribution of the money as it deems just, and payment made in

accordance with the order discharges the insurer to the extent of the amount paid. R.O. 1958, c. 57, s. 101; 1967 (1st) c. 15, s. 3.

106. (1) The court may fix without taxation the costs incurred in connection with an application or order made under section 101 or section 105, and may order them to be paid out of the insurance money or by the insurer or the applicant or otherwise as it deems just. R.O. 1958, c. 57, s. 102; 1967 (1st) c. 15, s. 3.

Costs of application or order

107. (1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a discharge therefor who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable pay the money, less the applicable costs mentioned in subsection (2), into court to the credit of the minor.

Payment into court for benefit of minor

(2) The insurer may retain out of the insurance money for costs incurred upon payment into court under subsection (1) the sum of ten dollars where the amount does not exceed one thousand dollars, and the sum of fifteen dollars in other cases, and payment of the remainder of the money into court discharges the insurer.

Amount to be retained as costs

(3) No order is necessary for payment into court under subsection (1), but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and, upon such payment being made, the insurer shall forthwith notify the Public Administrator and deliver to him a copy of the affidavit. R.O. 1985, c. 57, s. 103; 1967 (1st) c. 15, s. 3.

Action required following payment into court

108. (1) Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid. R.O. 1958, c. 57, s. 104; 1967 (1st) c. 15, s. 3.

Payment to personal representative of beneficiary under disability

MISCELLANEOUS PROVISIONS

109. (1) No officer, agent or employee of an insurer and no person soliciting insurance, whether or not he is an agent of the insurer, shall, to the prejudice of the insured, be

When person soliciting insurance not agent of insurer

deemed to be the agent of the insured in respect of any question arising out of a contract. R.O. 1958, c. 57, s. 105; 1967 (1st) c. 15, s. 3.

No liability for withholding notice of instrument affecting insurance money

110. (1) An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money. R.O. 1958, c. 57, s. 106; 1967 (1st) c. 15, s. 3.

PART V

AUTOMOBILE INSURANCE

INTERPRETATION

Definitions

111. (1) In this Part

"driver's policy" "driver's policy" means a motor vehicle liability policy that insures a person named therein in respect of the operation or use by him of any automobile other than an automobile owned by him or registered in his name;

"insured" "insured" means a person insured by a contract whether named or not;

"motor vehicle liability policy" "motor vehicle liability policy" means a policy or that part of a policy that insures the owner or driver of an automobile against liability for loss or damage to persons or property; and

"owner's policy" "owner's policy" means a motor vehicle liability policy that insures a person named therein in respect of the ownership, operation or use of any automobile owned by him and specifically described in the policy and, in respect of the ownership, operation or use of any other automobile that is within the definition thereof appearing in the policy. R.O. 1958, c. 57, s. 113.

GENERAL PROVISIONS

Application

112. (1) This Part applies in respect of automobile insurance and to any insurer carrying on the business of automobile insurance in the Territory and in respect of all contracts made in the Territory on or after the 1st day of May, 1956.

Insurance of automobile by fire insurance policy

(2) Nothing in this Part prevents the insuring of an automobile against loss or damage by fire under a policy of fire insurance, and in that event this Part does not apply.

(3) Sections 34 and 35 do not apply in respect of automobile insurance in respect of which this Part applies.

Non-applicability of sections 34 and 35.

(4) This Part, other than section 136, does not apply in respect of insurance of an automobile chiefly used or operated off highways unless insured under a form of policy approved under this Part. R.O. 1958, c. 57, s. 114.

Application

113. (1) No insurer shall make any contract for a period exceeding fourteen days without a written application therefor, signed by the applicant or his agent duly authorized in writing.

Requirements as to written application

(2) No person carrying on the business of financing the sale or purchase of automobiles, no automobile dealer, insurance agent or broker, and no officer or employee of any such person, dealer, agent or broker, shall act as agent for an applicant under this section.

Persons forbidden to act as agents for applicants

(3) Every written application for a driver's policy shall set forth,

Application for driver's policy

- (a) the name, address and occupation or business of the applicant,
- (b) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application,
- (c) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him,
- (d) whether any licence, permit, registration certificate or other like authority, issued to the applicant under any ordinance or under any law or statute of any province, state or country relating to automobiles, has been or continued to be, to the knowledge of the applicant, suspended or cancelled within the three years preceding the application, and
- (e) such further information as the insurer may require or the Commissioner may prescribe.

(4) Every other written application shall set forth,

Application in other cases

- (a) the name, address and occupation or business of the applicant,
- (b) the description of the automobile to be insured,
- (c) the purchase price to the applicant of the automobile,
- (d) whether the automobile was purchased new or otherwise,

- (e) particulars of any mortgage, lien or encumbrance thereon,
- (f) the place where the automobile is and will usually be kept,
- (g) the locality in which and the purpose for which the automobile is and will be used chiefly,
- (h) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application,
- (i) whether any insurer has cancelled any policy of automobile insurance of the applicant, or refused automobile insurance to him,
- (j) whether any licence, permit, registration certificate or other like authority, issued to the applicant or member of his family and household under any ordinance or under any law or statute of any province, state or country relating to automobiles, has been or continued to be, to the knowledge of the applicant, suspended or cancelled within the three years preceding the application, and
- (k) such further information as the insurer may require or the Commissioner may prescribe.

Special contracts

(5) Where the requirements of subsections (3) and (4) are, in the opinion of the Commissioner, inapplicable to any special form of contract, the Commissioner may prescribe the form of application or vary, omit or add to those requirements.

Red ink endorsement

(6) Upon every written application and policy there shall be printed or stamped in conspicuous type, not less in size than ten point and in red ink, a copy of subsection 119(1).

Renewal of contract

(7) Where a contract is renewed without change or only the amount of the insurance, the rate of premium or the method of rating is changed, the renewal may be effected without a written application.

Copy of application

(8) A copy of the application, or such part thereof as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer. R.O. 1958, c. 57, s. 115.

Amendment of contract

114. (1) Where it is proposed to change the subject matter of a contract by substitution or addition of one or more automobiles, the insurer may so amend the contract by an endorsement of the policy, but in such case the insurer shall obtain a written application signed in accordance with section 113 and containing such particulars required by that

section as relate to the new subject matter. R.O. 1958, c. 57, s. 116.

- 115.** (1) Every policy shall set forth,
- (a) the name and address of the insurer,
 - (b) the name, address and occupation or business of the insured named therein,
 - (c) the premium for the insurance,
 - (d) the subject matter of the insurance,
 - (e) the indemnity for which the insurer may become liable,
 - (f) the event on the happening of which liability is to accrue,
 - (g) the term of the insurance, and
 - (h) except in case of motor vehicle liability policies, the name of the person to whom the insurance money is payable.

Contents of
policy

(2) Unless otherwise expressly stated therein, any written application shall be deemed to be one for a policy embodying the terms and conditions of the insurer's corresponding standard policy form; and the policy shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application, and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

Discrepancy
between applica-
tion and policy

(3) Notwithstanding any agreement, the insurer shall deliver or mail to the insured named therein the policy or a true copy thereof and every endorsement or amendment of the policy or a true copy thereof. R.O. 1958, c. 57, s. 117.

Delivery of
policy to insured

116. (1) Subject to subsections (2) and (3) and sections 117 and 137,

Statutory
conditions

- (a) the conditions set forth in Part II of the Schedule are statutory conditions and shall be deemed to be part of every contract of automobile insurance and shall be printed on every policy with the heading "Statutory Conditions", and
- (b) no variation or omission of a statutory condition is valid nor is anything contained in any addition to a statutory condition or in the description of the subject matter of the insurance effective insofar as it varies, avoids or is inconsistent with any such condition.

Prescription of conditions in certain cases

(2) Where the automobile insurance is neither insurance under a motor vehicle liability policy nor insurance against loss of or damage to an automobile designated in the policy, the Commissioner may prescribe appropriate conditions or may omit, vary or add to the statutory conditions referred to in this section.

Form of motor vehicle liability policy

(3) The Commissioner may approve a form of motor vehicle liability policy appropriate to insure a limited or restricted use of the automobile and in that case the statutory conditions referred to in this section shall be deemed to be amended so far as is necessary to give effect to the terms and conditions of the policy so approved and sections 126 and 127 shall not apply in such case. R.O. 1958, c. 57, s. 118.

Certain conditions not part of policy

117. (1) Where the policy does not insure against liability for loss or damage to persons or property, statutory condition 4 of the conditions referred to in section 116 shall not be deemed to be part of the policy.

Idem.

(2) Where the policy does not insure against loss of or damage to an automobile, statutory condition 5 of the conditions referred to in section 116 shall not be deemed to be part of the policy. R.O. 1958, c. 57, s. 119.

Insurer must file with Commissioner copy of policy or endorsement before issue or delivery

118. (1) No insurer shall issue or deliver a policy or endorsement to a policy until a copy of the form of policy or endorsement has been on file with the Commissioner for at least thirty days, unless sooner approved in writing by him, nor if within that period the Commissioner notifies the insurer in writing that such form of policy or endorsement is not approved.

Reasons for not approving or disapproving

(2) The Commissioner shall upon request specify the reasons for not approving or for disapproving of a form of policy or endorsement.

Approval may be revoked

(3) Where approval has been given by the Commissioner pursuant to this section, the approval may be revoked by him at any time upon giving written notice to the insurer specifying the reasons for revocation of the approval. R.O. 1958, c. 57, s. 120.

Avoidance of policy for misrepresentation, fraud or violation of condition

119. (1) Where

(a) an applicant for a contract

(i) gives false particulars of the described automobile to be insured, to the prejudice of the insurer, or

(ii) knowingly misrepresents or knowingly fails to disclose in the application any fact required to be stated therein,

(b) the insured violates a term or condition of the policy or commits a fraud, or

(c) the insured wilfully makes a false statement with respect to a claim under the policy,

a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.

(2) Where a written application for a contract is made, no statement of the applicant shall be used in defence of a claim under the policy unless it is contained in the written application. R.O. 1958, c. 57, s. 121.

Statements not in written application

120. (1) Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the Court deems it inequitable that the insurance should be forfeited or avoided on that ground, the Court may relieve against the forfeiture or avoidance on such terms as it may deem just. R.O. 1958, c. 57, s. 122.

Relief against forfeiture

121. (1) Insurance money is payable in lawful money of Canada. R.O. 1958, c. 57, s. 123.

Payment of insurance money

122. (1) No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part unless the waiver is stated in writing and signed by an agent of the insurer. R.O. 1958, c. 57, s. 124.

Waivers to be in writing

123. (1) Where an insurer makes any payment or assumes liability therefor under a contract of automobile insurance, it is subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce such rights.

Subrogation of insurer

(2) Where the net amount recovered in an action referred to in subsection (1), after deduction of the costs of the recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, the amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively. R.O. 1958, c. 57, s. 125.

Division of amount recovered

Use of red ink

124. (1) No red ink shall be used in printing a policy, except for the name, address and emblem of the insurer, the policy number and the purposes mentioned in this Part. R.O. 1958, c. 57, s. 126.

Rights of insured preserved

125. (1) Any act or omission of the insurer resulting in non-compliance or imperfect compliance with any provision of this Part does not render a contract invalid as against the insured. R.O. 1958, c. 57, s. 127.

Coverage of owner's policy

126. (1) Every owner's policy insures the person named therein and every other person who, with his consent, personally drives any automobile specifically described in the policy, against the liability imposed by law upon the insured named therein or any such other person for loss or damage

- (a) arising from the ownership, use or operation of any such automobile within Canada, the continental United States of America or Alaska, or upon a vessel plying between ports thereof, and
- (b) resulting from,
 - (i) bodily injury to or death of any person,
 - (ii) damage to property, or
 - (iii) both.

(2) Nothing in subsection (1) precludes coverage being provided in an owner's policy to the person named therein and such other persons as may be specified therein, who, with his consent, personally drive any other automobile within the definition thereof appearing in the policy, against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage described in paragraphs (1)(a) and (1)(b).

Rights of unnamed insured

(3) Any person insured by but not named in a policy may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. R.O. 1958, c. 57, s. 128.

Coverage of driver's policy

127. (1) Every driver's policy insures the person named therein against the liability imposed by law upon the insured for loss or damage,

- (a) arising from the operation or use by him of any automobile, other than an automobile owned by him or registered in his name, while he is personally in control as driver or occupant of the automobile within Canada, the continental United States of America or

Alaska, or upon a vessel plying between ports thereof,
and

(b) resulting from

- (i) bodily injury to or death of any person,
- (ii) damage to property, or
- (iii) both. R.O. 1958, c. 57, s. 129.

128. (1) Under an owner's or a driver's policy the insurer shall, Liabilities of insurer

- (a) upon receipt of notice of loss or damage caused to persons or property, make such investigations, conduct such negotiations with the claimant and effect such settlement of any resulting claims, as may be deemed expedient by the insurer,
- (b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action that may at any time be brought against the insured on account of loss or damage to persons or property,
- (c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment that is within the limits of the insurer's liability, and
- (d) in case the injury be to a person, reimburse the insured for outlay for such medical aid as may be immediately necessary at the time.

(2) Where a person is insured under more than one motor vehicle liability policy, whether the insurance is first loss insurance or excess, and a question arises under paragraph 128(1)(b) between an insurer and the insured or between the insurers as to which insurer shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its policy, the insured or any insurer may apply to the Court and the Court shall give such directions as may appear proper with respect to the performance of the obligation. Application to Court where more than one policy

(3) On an application under subsection (2), the only parties entitled to notice thereof and to be heard thereon are the insured and his insurers, and no material or evidence used or taken upon such an application is admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use of the automobile in respect of which the insurance is provided. Parties entitled to notice, etc.

Effect of order

(4) An order under subsection (2) does not affect the rights and obligations of the insurers with respect to payment of any indemnity under their respective policies.

Contribution where excess insurance

(5) Where the insured has indemnity under two or more policies and any one or more are excess insurance by virtue of section 135, the insurers shall, as between themselves, contribute to the payment of the expenses, cost and reimbursement provided for in subsection (1) in accordance with their respective liabilities for damages against the insured. R.O. 1958, c. 57, s. 130.

Exceptions to liability of insurer

129. (1) Subject to section 133, an insurer is not liable under an owner's policy or a driver's policy

- (a) for any liability imposed by any workmen's compensation law upon the insured, or
- (b) for loss or damage resulting from bodily injury to or the death of
 - (i) the son, daughter, wife, husband, mother, father, brother or sister of the insured while being carried in or upon, or entering or getting on to, or alighting from an automobile, or
 - (ii) the insured,

nor, unless the coverage is expressly extended under section 133,

- (c) to any person, not being the owner of the automobile, engaged in the business of an automobile garage, repair shop or service station or of an automobile dealer, for loss or damage sustained while engaged in the operation or repair of an automobile,
- (d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to, or alighting from an automobile,
- (e) or loss of or damage to property carried in or upon an automobile or to any property owned or rented by, or in the care, custody or control of the insured,
- (f) for loss or damage resulting from bodily injury to or the death of any employee of the insured while engaged in the operation or repair of an automobile, or
- (g) where the coverage is expressly excluded by endorsement approved by the Commissioner, for loss or damage arising from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile with a separate power or heating unit, while at the site of the

use or operation of such machinery or apparatus. R.O. 1958, c. 57, s. 131.

130. (1) A person insured under a policy of nuclear energy hazard liability insurance issued by a group of insurers against loss or damage resulting from bodily injury to, or the death of, any person or against loss of or damage to property arising directly or indirectly from a nuclear energy hazard may, with respect to any such loss or damage and whether named in that policy or not, recover under that policy (if it is in force at the time of the event giving rise to that loss or damage) in the same manner and to the same extent as the insured and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

Nuclear energy hazard liability insurance

(2) Subject to subsection (4), where a person is insured

Liability for nuclear energy hazard

(a) under a policy of automobile insurance against loss or damage resulting from bodily injury to, or the death of, any person or against loss of or damage to property arising directly or indirectly from a nuclear energy hazard, and

(b) under a policy of nuclear hazard liability insurance described in subsection (1),

the insurer under the policy of automobile insurance is liable to indemnify the insured, whether named in those policies or not, only for such liability as is imposed by law on the insured and that is in excess of the limits of liability under the nuclear energy hazard liability policy but that does not exceed the minimum limits prescribed by section 131.

(3) For the purpose of this section,

"Nuclear energy hazard" defined

(a) "nuclear energy hazard" means the radio-active, toxic, explosive or other hazardous properties of substances which are referred to in the *Atomic Energy Control Act* as "prescribed substances", and

(b) a policy of nuclear energy hazard liability insurance shall be deemed to be in force at the time of the event giving rise to the loss or damage, notwithstanding that the limits of liability thereunder have been exhausted.

When policy deemed in force

(4) This section does not apply to a policy of insurance unless the policy contains a statement that liability for loss or damage resulting from a nuclear energy hazard is limited by this section if the insured is also covered by nuclear energy hazard liability insurance. 1963 (2nd) c. 5. s. 1.

Section not to apply

131. (1) Every owner's and driver's policy shall insure to the limit of at least fifty thousand dollars exclusive of interest and costs against loss or damage resulting from bodily injury to or the death of one or more persons and loss of or damage to property; and where in any one accident loss or damage results from bodily injury or death and loss of or damage to property any claim arising out of bodily injury or death shall have priority over any claim arising out of loss of or damage to property. R.O. 1958, c. 57, s. 132; 1960 (3rd) c. 2, s. 2.

Extended coverage

132. (1) In the case of an owner's or driver's policy, the insurer may, in consideration of an additional stated premium and not otherwise, extend the coverage in whole or in part

- (a) to any or all of the matters mentioned in paragraphs 129(c), (e) and (f), by and endorsement on the policy, and
- (b) to the matter mentioned in paragraph 129(d), by a provision in the policy or an endorsement on it.

Idem.

(2) The insurer may, in the case of an owner's policy extend the coverage in whole or in part in respect of the operation or use of automobiles not owned by or registered in the name of the insured.

Other matters

(3) The insurer may, in the case of an owner's policy or a driver's policy, extend the coverage to such other matters as the Commissioner may approve.

Commissioner to approve extension

(4) No insurer shall extend the coverage under subsection (2) or (3) without the approval of the Commissioner of the form of the extended coverage, the method of providing therefor and of the necessity or otherwise of an additional stated premium for the coverage. R.O. 1958, c. 57, s. 133.

Coverage for necessary medical, surgical and other expenses

133. (1) An insurer issuing an owner's or a driver's policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein, agree to pay for each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to or alighting from the automobile specifically described in the policy or within the definition thereof appearing in the policy within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof, if the automobile is being used by the insured named in the policy or with his consent, all reasonable expenses incurred, within one year from the date of the accident as a result of the injury, for necessary medical,

surgical, dental, ambulance, hospital, professional nursing and funeral services.

(2) No insurer shall give insurance mentioned in subsection (1) without the approval of the Commissioner of the terms and conditions thereof. R.O. 1958, c. 57, s. 134. Commissioner's approval

134. (1) Subject to subsection (2), where the insured named in a policy has or places any additional or other valid insurance of his interest in the subject matter of the contract, or any part thereof, the insurer shall be liable only for its ratable proportion of any loss or damage. Proportioning liability of insurer

(2) Insurance under a valid owner's policy shall, as respects the liability arising from the ownership, use or operation of the automobile specifically described in the policy, be a first loss insurance, and insurance attaching under any other valid motor vehicle policy shall be excess insurance only. Where more than one motor vehicle liability policy

(3) A copy of subsections (1) and (2) shall be printed or stamped in conspicuous type, not less in size than ten point, upon every automobile insurance policy and those subsections constitute terms of the contract between the insurer and the insured. Copy on policy

(4) Subsection (2) has effect as between insurers. R.O. 1958, c. 57, s. 135. Effect of subsection (2)

135. (1) Where any provision of sections 126 to 134 is inapplicable by reason of the requirements of any Act or Ordinance or, in the opinion of the Commissioner, is unsuitable to any special form of contract, he may approve a form of motor vehicle liability policy sufficient or appropriate to insure the risks required or proposed to be insured and in that case those sections do not apply. R.O. 1958, c. 57, s. 136. Policy in special cases

136. (1) Any person who has a claim against an insured, for which indemnity is provided by a motor vehicle liability policy, notwithstanding that such person is not a party to the contract, is entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied. Rights of certain creditors of insured in insurance money

Other creditors

(2) No creditor of the insured is entitled to share in the insurance money payable under any such policy in respect of any claim for which indemnity is not provided by the policy.

Indisputability of liability of insurer

(3) No

(a) assignment, waiver, surrender, cancellation or discharge of the policy, or of any interest therein, or if the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the policy,

(b) act or default of the insured before or after such event in violation of any provision of this Part or of the terms of the contract, and

(c) violation of the *Criminal Code* or of any law or statute of any province or the Territory, state or country, by the owner or driver of an automobile,

prejudices the right of any person, entitled under subsection (1), to have the insurance money applied upon his judgment or claim, nor shall anything referred to in paragraphs (a), (b) and (c) be available to the insurer as a defence to the action.

(4) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer and alleged by a party to the action to be such a policy, is not a motor vehicle liability policy; and the provisions of this section apply, *mutatis mutandis*, to the instrument.

Contribution among insurers

(5) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection (1) to be made parties to an action under this section and to contribute according to their respective liabilities, whether this be ratably or by way of first loss or excess insurance, as the case may be, and the insured shall, on demand, furnish the insurer with particulars of all other insurance covering the subject matter of the contract.

Defence where excess coverage

(6) Subject to subsection (7), where one or more policies provide for coverage in excess of the limits mentioned in section 131 or for extended coverage pursuant to subsections 132(1) and 132(3), nothing in this section with respect to such excess coverage or extended coverage prevents any insurer from availing itself, as against a claimant, of any defence that the insurer is entitled to set up against the insured.

Application of subsection (6)

(7) Where a policy provides for extended coverage in respect of loss or damage resulting from bodily injury to, or the death of, any person being carried in or upon, or enter-

ing, or getting on to or alighting from an automobile operated in the business of carrying passengers for compensation or hire, subsection (6) applies only to that part of such extended coverage,

- (a) that exceeds any minimum coverage required by this Ordinance, or
- (b) where a greater minimum coverage is required by or pursuant to any other Ordinance, exceeds such greater minimum coverage.

(8) The insured is liable to pay or reimburse the insurer, upon demand, any amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

Liability of insured to reimburse insurer

(9) Where an insurer denies liability under a motor vehicle liability policy, it has the right upon application to the Court to be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action in which it is or might be asserted that indemnity is provided by the said policy, whether or not the insured files a defence or a demand of notice of proceedings, and upon being made a third party such insurer has the right to contest the liability of the insured to any party claiming against the insured, and to contest the amount of any claim made against the insured to the same extent as if a defendant in the action, including for such purposes the right to deliver a statement of defence to the claim of any party against the insured and to deliver other pleadings and to have production and discovery from any party adverse in interest and the right to examine and cross-examine witnesses at the trial.

Right of insurer when liability denied, to be made a third party in action

(10) An insurer is entitled to avail itself of subsection (9) notwithstanding that another insurer is defending in the name and on behalf of the insured an action to which its insured is a party. R.O. 1958, c. 57, s. 137.

Idem.

137. (1) A policy, other than a motor vehicle liability policy, may contain a clause to the effect that the insurer in the event of loss shall pay only an agreed portion of any loss that may be sustained or the amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed upon the face of the policy in conspicuous type, in red ink, the words: "This policy contains a partial payment of loss clause." R.O. 1958, c. 57, s. 138.

Partial payment of loss clause

Adjustment of claim with insured

138. (1) Where a claim is made under any policy other than a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the policy as well as with any person having an interest indicated in the policy. R.O. 1958, c. 57, s. 139.

Offence

139. (1) Every person who fails to comply with or violates any provision of this Part commits an offence.

(2) Every person who commits an offence against this Part is liable on summary conviction to a fine not exceeding two hundred dollars. R.O. 1958, c. 57, s. 140.

PART VI

ACCIDENT AND SICKNESS INSURANCE

INTERPRETATION

Definitions

140. (1) In this Part

"contract"

"contract" means a contract of accident insurance or of sickness insurance or of both;

"creditor's group accident insurance" and "creditor's group sickness insurance"

"creditor's group accident insurance" and "creditor's group sickness insurance" mean, respectively, accident insurance and sickness insurance effected by a creditor whereby the lives or well-being or the lives and well-being of a number of his debtors are insured severally under a single contract;

"group accident insurance" and "group sickness insurance"

"group accident insurance" and "group sickness insurance" mean, respectively, accident insurance and sickness insurance, other than creditor's group accident insurance and creditor's group sickness insurance, whereby the lives or well-being or the lives and well-being of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer;

"insured"

"insured" means a person who makes a contract with an insurer;

"person"

"person" includes a firm, partnership or corporation, an unincorporated society or association and trade union; and

"person insured"

"person insured" means a person in respect of an accident to whom, or in respect of whose sickness, benefits are payable under a contract. R.O. 1958, c. 57, s. 141.

APPLICATION OF PART

141. (1) This Part applies to accident insurance and to sickness insurance and to an insurer carrying on the business of accident insurance or sickness insurance or both. Application

(2) This Part does not apply to Exceptions
(a) creditor's group accident insurance,
(b) creditor's group sickness insurance,
(c) disability insurance,
(d) double indemnity insurance, or
(e) insurance provided under section 133.

(3) This Part, except sections 142, 149, 150, 156, 158, 159, 160 and 163, does not apply to group accident insurance or group sickness insurance. R.O. 1958, c. 57, s. 142. Group insurance

CONTRACTS OF INSURANCE

142. (1) A contract shall be evidenced by an instrument in writing called, in this Part, a policy. R.O. 1958, c. 57, s. 143. Policy to evidence contract

143. (1) Every policy shall contain Contents of policy
(a) the name and address of the insurer,
(b) the name of the insured,
(c) the name of the person to whom the insurance money is payable.
(d) the premium for the insurance,
(e) the indemnity for which the insurer may become liable,
(f) the event on the happening of which such liability is to accrue, and
(g) the term of the insurance. R.O. 1958, c. 57, s. 144.

144. (1) Subject to subsections (2), (3) and (4) of this section, to the statutory conditions prescribed under section 145 and to section 157, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under contract, either in the provision affected by the exception or reduction or under a heading such as "Exceptions" or "Reductions". Exceptions or reductions

(2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision.

(3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.

(4) This section does not apply to a policy issued by a fraternal society. R.O. 1958, c. 57, s. 145.

Statutory conditions

145. (1) Subject to section 146, the conditions set forth in Part III of the Schedule shall be deemed to be part of every contract and shall be printed on every policy under the heading "Statutory Conditions". R.O. 1958, c. 57, s. 146.

Omission or variation of conditions

146. (1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

(3) Statutory conditions 5 and 6 may be omitted from the policy if the contract does not provide that it may be terminated by the insurer.

(4) Statutory conditions 3, 4, 5, 6 and 9, and statutory condition 7 except, in policies providing benefits for loss of time, subparagraphs (1)(a) and (1)(b) thereof, may be varied but if by reason of the variation the contract is less favourable to the insured, person insured or beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in Part III of the Schedule.

(5) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein and statutory condition 12 may be varied by lengthening the period of time prescribed therein.

(6) The title of a statutory condition shall be reproduced in the policy along with the statutory condition but the number of a statutory condition may be omitted.

(7) In the case of a contract made by a fraternal society,

(a) the following provisions shall be printed on every policy in substitution for subsection (1) of statutory condition 1 in Part III of the Schedule:

"1. (1) This Policy, the Act or instrument of incorporation of the insurer, its constitution, by-laws and rules, and the amendments made from time to

time to its constitution, by-laws or rules, the application for the contract and the medical statement of the applicant constitute the entire contract and no agent has authority to change the contract or waive any of its provisions.”, and

- (b) statutory condition 5 in Part III of the Schedule shall not be printed on the policy. R.O. 1958, c. 57, s. 147.

147. (1) Where a policy is delivered, the contract is as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who did not have authority to deliver it.

Delivery of policy

(2) The insurer may deduct the unpaid premium from the amount for which it may become liable under the contract or may sue the insured therefor.

Right where premium unpaid

(3) Where the premium or a part thereof is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note is not paid at maturity the contract is voidable at the option of the insurer.

Where cheque or note for premium not paid

(4) This section does not apply to a contract made by a fraternal society. R.O. 1958, c. 57, s. 148.

Fraternal contracts

INSURABLE INTEREST

148. (1) Every person has an insurable interest in his own life and well-being R.O. 1958, c. 57, s. 148.

Insurable interest in own life and well-being

149. (1) Without restricting the meaning that “insurable interest” now has in law, each of the following persons has an insurable interest:

Insurable interest in lives and well-being of others

- (a) a parent in the life and well-being of his child under twenty-five years of age;
- (b) a husband in the life and well-being of his wife;
- (c) a wife in the life and well-being of her husband;
- (d) one person in the life and well-being of another upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education;
- (e) a corporation or other person in the life and well-being of its or his officer or employee; and
- (f) a person who has a pecuniary interest in the duration of the life and continued well-being of another person, in the life and well-being of that person. R.O. 1958, c. 57, s. 150.

Contract void without insurable interest

150. (1) A contract is void, if, at the time at which it would otherwise take effect and be binding, the insured has no insurable interest in the person insured.

Group contracts

(2) Notwithstanding subsection (1), a contract of group accident insurance or of group sickness insurance or of both is valid if it provides benefits solely for the persons insured under the contract. R.O. 1958, c. 57, s. 151.

When insurable interest unnecessary

151. (1) Where the insured has at the time at which the contract takes effect an insurable interest in the person insured, it is not necessary for the validity of the contract or an assignment thereof that a beneficiary, or a person claiming under an assignment, or by will or by succession, have an insurable interest. R.O. 1958, c. 57, s. 152.

POLICIES ON THE LIVES OF MINORS

Capacity of minors

152. (1) A minor, after attaining the age of fifteen years, has the capacity of a person of full age

- (a) to effect a contract on his own life or well-being and to deal with the contract,
- (b) to deal with a contract on his own life or well-being effected by him before attaining the age of fifteen years,
- (c) to deal with his interest in a contract effected on his life or well-being by another, whether effected before or after the minor attained the age of fifteen years, and
- (d) if married, to effect a contract on the life or well-being of his spouse or of his children, or of both, and to deal with the contract. R.O. 1958, c. 57, s. 153.

MISREPRESENTATION AND NON-DISCLOSURE

Statements in applications

153. (1) The statements made by the insured in his application for the contract are, in the absence of fraud, representations and not warranties. R.O. 1958, c. 57, s. 154.

Incontestability

154. (1) Except as provided in subsection (2), after a contract, including renewals thereof, has been in force for two years with respect to a person insured, every statement made in the written application in respect of that person, other than a fraudulent statement or a statement erroneous as to age, shall be deemed to be true and is incontestable.

Exception

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has

been in force for two years with respect to the person in respect of whom the claim is made, subsection (1) does not apply to that claim. R.O. 1958, c. 57, s. 155.

155. (1) Where a person insured suffers or has suffered from a disease or physical condition that existed prior to the date the contract came into force with respect to that person and the disease or physical condition is not specifically excluded from the insurance, Pre-existing conditions

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force for two years with respect to that person, and
- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, if the disease or physical condition was disclosed in the written application for the contract. R.O. 1958, c. 57, s. 156.

BENEFICIARIES

156. (1) Where insurance money is payable upon death by accident, the insured, or in the case of group accident insurance the person insured, may designate in writing a beneficiary to receive the insurance money or part thereof and may alter or revoke in writing any prior designation. Designation of beneficiary

(2) If the beneficiary is not living at the time of the death of the person insured, the insurance money is payable to the insured or his estate or in the case of group accident insurance the estate of the person insured, unless the instrument by which the beneficiary is designated otherwise provides. Debt of beneficiary

(3) A beneficiary designated pursuant to subsection (1) may upon the death of the person insured enforce for his own benefit the payment of insurance money payable to him and payment to the beneficiary discharges the insurer, but the insurer may set up any defence that it could have set up against the insured, or the person insured in the case of group accident insurance, or the personal representative of either of them. R.O. 1958, c. 57, s. 157. Right to sue

MISCELLANEOUS

157. (1) Subject to subsection (2), if the age of the person insured has been misstated, the amounts payable under the Misstatement of age

contract are those that the premium paid would have purchased if the correct age had been stated.

(2) Where the age of the person insured affects the commencement or termination of the insurance, the true age governs. R.O. 1958, c. 57, s. 158.

Presumption of death

158. (1) Where a contract provides for the payment of moneys upon the death by accident of the person insured and the person insured and the beneficiary perish in the same disaster, it shall be *prima facie* presumed that the beneficiary died first. R.O. 1958, c. 57, s. 159.

Payment into Court

159. (1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that

- (a) there are adverse claimants,
- (b) the place of abode of a person entitled is unknown, or
- (c) there is no person capable of giving and authorized to give a valid discharge, who is willing to do so,

the insurer may apply *ex parte* to the Court for an order for payment of the money into Court, and the Court may upon such notice, if any, as it thinks necessary make an order accordingly.

Cost of proceedings

(2) The Court may fix and ascertain without taxation the costs incurred upon or in connection with any application or order made under subsection (1) and may order the costs to be paid out of the insurance money or by the insurer or otherwise as seems just.

Discharge of insurer

(3) A payment made pursuant to an order under subsection (1) discharges the insurer to the extent of the payment. R.O. 1958, c. 57, s. 160.

Payments not exceeding two thousand dollars

160. (1) Where insurance money is payable to a beneficiary or to the estate of the insured or of the person insured, the insurer may, if the contract so provides, pay an amount not exceeding two thousand dollars to

- (a) a relative by blood or connection by marriage of the insured or of the person insured, or
- (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of the insured or person insured or to have a claim against the estate of the insured or of the person insured in relation thereto. R.O. 1958, c. 57, s. 161.

161. (1) The insurer shall not, in the policy, give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy. R.O. 1958, c. 57, s. 162.

Undue prominence

162. (1) Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the claimant or as to any matter or thing to be done or omitted by the insured or claimant with respect to the loss insured against, and a consequent forfeiture or avoidance of the insurance in whole or in part, and a Court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the Court may relieve against the forfeiture or avoidance on such terms as it deems just. R.O. 1958, c. 57, s. 163.

Relief from forfeiture

163. (1) No officer, agent, employee or servant of the insurer or any person soliciting accident insurance or sickness insurance or both, whether an agent of the insurer or not, shall, to the prejudice of the insured or of the person insured, be deemed to be for any purpose whatever the agent of the insured or of the person insured in respect of any question arising out of the contract. R.O. 1958, c. 57, s. 164.

Presumption against agency

PART VII

FRATERNAL SOCIETIES

INTERPRETATION

164. (1) In this Part

Definitions

“rates of contribution” means the regular net premiums, dues, rates or contributions receivable from the members of a society for the purpose of the payment at maturity of the society’s certificates or contracts of insurance; and

“rates of contribution”

“society” means a fraternal society. R.O. 1958, c. 57, s. 165.

“society”

GENERAL PROVISIONS

165. (1) Subject to subsection (2), this Part applies to all societies carrying on the business of life insurance in the Territory.

Application

(2) Section 175 does not apply to a society the membership of which is limited by its constitution or laws to municipal or government employees. R.O. 1958, c. 57, s. 166.

* Societies not deemed to be fraternal societies

166. (1) The following shall not be deemed societies within the meaning of this Part :

- (a) a corporation not otherwise provided for in this Ordinance that has, by or under the authority of an Act of the Parliament of Canada, created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition ;
- (b) a corporation not otherwise provided for in this Ordinance that has, by or under the authority of an Act of the Parliament of Canada, an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation ;
- (c) a corporation that undertakes or offers to undertake contracts of insurance other than with its own members exclusively, or for more than five thousand dollars payable on the death of any one member other than a funeral benefit, or any contracts of insurance with its members other than,
 - (i) life insurance,
 - (ii) benefits, or contracts for the payment of mortuary or funeral
 - (iii) old age insurance ;
- (d) a corporation in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured ;
- (e) a society in which the persons insured to do not exercise, either directly or through representatives elected for a term not exceeding four years, effective control over the insurance fund of the society, or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years ; and
- (f) any corporation that undertakes contracts of insurance but is not formed exclusively for that purpose and does not for the purpose of such contracts keep distinct and separate funds, securities, books and vouchers. R.O. 1958, c. 57, s. 167.

Rules, etc., deliverable on demand

167. (1) A copy of the constitution, by-laws and rules of a society relating to its insurance contracts and to the manage-

ment and application of its insurance funds shall be delivered by the society to any person requiring the same on payment of twenty-five cents.

(2) If an officer or agent of a society, with intent to mislead or defraud, gives to any person a copy of the constitution, by-laws and rules other than those then in force on the pretence that they are the constitution, by-laws and rules then in force, he commits an offence. R.O. 1958, c. 57, s. 168.

168. (1) No unmatured policy or contract creates any claim or liability against the society while a going society, or against the estate of the society in a winding-up or liquidation, but in a winding-up or liquidation the insured or beneficiary for value under the unmatured policy or contract is entitled to share in the surplus assets of the society. R.O. 1958, c. 57, s. 169.

Unmatured
policies as
liabilities

169. (1) The liabilities of a member under his contract shall at any time be limited to the assessments, fees and dues that became payable within the preceding twelve months and of which at that time notice had been given in accordance with the constitution, by-laws and rules of the society.

Limitations of
member's
liability

(2) A member may at any time withdraw from the society by delivering or sending by registered post to the society notice in writing of his intention to withdraw, and paying or tendering the assessments, fees and dues mentioned in subsection (1).

Withdrawal

(3) Upon his withdrawal the member shall become thereby released from all further liability under his contract.

Release of
liability

(4) This section shall be subject to the provisions of any rules to the contrary certified by the Commissioner. R.O. 1958, c. 57, s. 170.

170. (1) No forfeiture or suspension is incurred by a member by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed times, until

Notice before
forfeiture of
benefit

(a) after notice to the member

- (i) stating the amount due by him, and
- (ii) stating that in case of default of payment within a reasonable time, being not less than thirty days, to the proper officer, who shall be named in the notice, the member's interest or benefit will be forfeited or suspended, and

(b) default has been made by the member in paying his contribution or assessment in accordance with such notice. R.O. 1958, c. 57, s. 171.

Saving rights to re-instatement

171. (1) Where under the constitution, by-laws or rules of a society a defaulting member is entitled to be reinstated on payment of arrears after a stated number of days' default section 171 does not prejudice the rights of the member. R.O. 1958, c. 57, s. 172.

Conditions of restricted forfeiture

172. (1) Where it is stipulated that the benefit of a contract shall be suspended, reduced or forfeited for any other reason than for non-payment of money, the stipulation is not valid unless it is held to be just and reasonable under the circumstances of the case. R.O. 1958, c. 57, s. 173.

Condition as to abstinence

173. (1) In any contract in which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable. R.O. 1958, c. 57, s. 174.

How notice may be given to members

174. (1) Subject to subsection (2), any notice required to be given to a member for any purpose of this Ordinance or of the constitution, by-laws or rules of the society may be effectually given by written or printed notice delivered or sent by registered post to the member or left at his last known place of abode or business.

Notice of reduction of benefit

(2) A notice of the reduction of any benefit payable under a contract or of the increase of the premium payable thereunder shall be sent by registered post to the member at his latest known place of abode or of business. R.O. 1958, c. 57, s. 175.

Reduction of benefits or increase of rates

175. A society may by amendment of its constitution, by-laws or rules

(a) reduce the benefits payable under any of its contracts.
or

(b) increase the rates of contribution payable by any of its members, as a whole or as a class,

and the amendment when adopted by a majority of the votes cast by the members of the supreme legislative body of the society at a regular or special meeting of the supreme legislative body of the society duly called is binding upon the members of the society, their beneficiaries or legal representatives and all persons deriving legal rights from any member or beneficiary, notwithstanding anything contained in the

provisions of the constitution, by-laws and rules before the amendments, or in the Ordinance or other instrument of incorporation of the society or in any contract, policy or certificate of insurance heretofore or hereafter issued by the Society. R.O. 1958, c. 57, s. 176.

PART VIII

GENERAL PROVISIONS APPLICABLE TO INSURERS

176. (1) Subject to subsection (2), payments in cash in whole or in part to an agent of an insurer of the amount of a premium or an assessment due in respect of a contract issued by the insurer, shall be deemed a payment to the insurer, notwithstanding any condition or stipulation to the contrary.

Payment to agent deemed payment to insurer

(2) This section does not apply in respect of life insurance. R.O. 1958, c. 57, s. 177.

Application

177. (1) An agent who acts in negotiating, renewing or continuing a contract with an insurer and receives any money or substitute for money as a premium for such a contract from the insured, shall be deemed to hold the premium in trust for the insurer, and, if he fails to pay it over to the insurer within thirty days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the insurer, he may be entitled, his failure to do so is *prima facie* evidence that he has used or applied the said premiums for a purpose other than paying the same over to the insurer. R.O. 1958, c. 57, s. 178.

Agent or insurer a trustee of premiums

178. (1) Any person, other than an insurer or its duly authorized agent,

Trafficking in life insurance policies

- (a) who advertises or holds himself out as a purchaser of life insurance policies or of benefits thereunder, or
- (b) who traffics or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to himself or any other person,

commits an offence. R.O. 1958, c. 57, s. 179.

179. (1) Any information, document, record, statement or thing, made or disclosed to the Commissioner concerning any person licensed or applying for a licence under this Ordinance is absolutely privileged and shall not be used as evi-

Privilege of certain reports, etc.

dence in any action or proceeding in any Court brought by or on behalf of such person. R.O. 1958, c. 57, s. 180.

Claim for indemnity not rendered unenforceable by violation of criminal or other law

180. (1) Subject to subsection (2), unless the contract otherwise provides, a violation of any criminal or other law in force in the Territory or elsewhere shall not, *ipso facto*, render unenforceable a claim for indemnity under a contract of insurance except where the violation is committed by the insured, or by another person with the consent of the insured, with intent to bring about loss or damage.

(2) In the case of a contract of life insurance, subsection (1) applies only in respect of disability insurance undertaken as part of the contract. R.O. 1958, c. 57, s. 181.

PART IX

PENALTIES

Offence

181. (1) Every person who fails to comply with or violates any provision of this Ordinance commits an offence.

Penalty

(2) Every person who commits an offence under this Ordinance, for which no other penalty is provided by the Ordinance, is liable upon summary conviction to a fine not exceeding two hundred dollars. R.O. 1958, c. 57, s. 182.

Limitation

182. (1) Every prosecution for any contravention of this Ordinance shall be commenced within two years of such contravention. R.O. 1958, c. 57, s. 183.

SCHEDULE I

PART I

(Section 48)

STATUTORY CONDITIONS

MISREPRESENTATION

1. If any person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance which is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract shall be void as to any property in relation to which the misrepresentation or omission is material.

PROPERTY OF OTHERS

2. Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the contract.

CHANGE OF INTEREST

3. The insurer shall be liable for loss or damage occurring after an authorized assignment under the "Bankruptcy Act" or change of title by succession, by operation of law or by death.

MATERIAL CHANGE

4. Any change material to the risk and within the control and knowledge of the insured shall avoid the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent; and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium; and in default of such payment the contract shall no longer be in force and the insurer shall return the unearned portion, if any, of the premium paid.

TERMINATION OF INSURANCE

5. (1) The insurance may be terminated

- (a) subject to the statutory provision relating to cases where loss under the contract has, with the consent of the insurer, been made payable to some person other than the insured, by the insurer giving to the insured at any time fifteen days notice of cancellation by registered mail, or five days notice of cancellation personally delivered, and, if the insurance is on the cash plan, by refunding the excess of premium actually paid by the insured beyond the pro rata premium for the expired time; or
- (b) if on the cash plan, by the insured giving written notice of termination to the insurer, in which case the insurer shall, upon surrender of the policy, refund the excess of premium actually paid by the insured beyond the customary short rate for the expired time.

(2) Repayment of the excess premium may be made by money, postal or express company money order or by cheque payable at par.

(3) If the notice is given by registered letter, the repayment shall accompany the notice.

(4) The fifteen days mentioned in clause (1)(a) of this condition shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

REQUIREMENTS AFTER LOSS

6. (1) Upon the occurrence of any loss of or damage to the insured property, the insured shall, if such loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,

- (a) forthwith give notice thereof in writing to the insurer;
- (b) deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration
 - (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
 - (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,

- (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
 - (iv) showing the amount of other insurances and the names of other insurers,
 - (v) showing the interest of the insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,
 - (vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract, and
 - (vii) showing the place where the property insured was at the time of loss;
- (c) if required give a complete inventory of undamaged property and showing in detail quantities, cost and actual cash value;
- (d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.

(2) The evidence furnished under clauses (1)(c) and (1)(d) of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.

FRAUD

7. Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars shall vitiate the claim of the person making the declaration.

WHO MAY GIVE NOTICE AND PROOF

8. Notice of loss may be given, and proof of loss may be made, by the agent of the insured named in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

SALVAGE

9. (1) The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to any such property

so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.

(2) The insurer shall contribute *pro rata* towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph (1) of this condition according to the respective interests of the parties.

ENTRY, CONTROL, ABANDONMENT

10. After any loss or damage to insured property, the insurer shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer shall not be entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

APPRAISAL

11. (1) If any difference arises as to the value of the property insured, the property saved or the amount of the loss, that value and the amount shall, whether the right to recover on the contract is disputed or not, be ascertained by two competent and disinterested appraisers, the insured and the insurer each selecting one, and the two so chosen then selecting a competent and disinterested umpire.

(2) The appraisers together shall then estimate and appraise the loss or damage, stating separately the sound values and damage and, failing to agree, shall submit their differences to the umpire; and the finding in writing of any two shall determine the value of the property insured, the property saved and the amount of loss.

(3) The parties thereto shall pay the appraisers respectively selected by them, and shall bear equally the expense of the appraisal and umpire.

WHEN LOSS PAYABLE

12. The loss shall be payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

REPLACEMENT

13. (1) The insurer, instead of making payment, may repair, rebuild or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.

(2) In that event the insurer shall commence to so repair, rebuild or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

ACTION

14. Every action or proceeding against the insurer for the recovery of any claim under or by virtue of this contract shall be absolutely barred unless commenced within one year next after the loss or damage occurs.

NOTICE

15. (1) Any written notice to the insurer may be delivered at, or sent by registered post to, the chief agency or office of the insurer in the Territory or delivered or so sent to any authorized agent of the insurer therein.

(2) Written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his latest post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

FORM A

(Section 53)

PROOF OF LOSS

Policy No. Amount of Policy \$

To Insurance Company

By your Policy of Insurance No. issued at your

..... Agency, dated the

day of and expiring the day of

..... at 12 o'clock noon,

you insured

against loss or damage by fire, to the amount of

..... dollars according to the terms and

conditions printed therein.

N.B.—(Give particulars of the material loss sustained and the value thereof as follows): A particular account of the loss is attached hereto and marked Exhibit A, and forms part of this proof and the ACTUAL CASH VALUE of each specific subject thus situated and described by the aforesaid policy at the time of loss, and the ACTUAL LOSS and DAMAGE by said fire to same as shown by the particular account attached hereto were as follows:

1st Item of Policy	Sound	Total	Total	Amount	Claimed
2nd Item of Policy	Value	Loss	Insur-	named	under
3rd Item of Policy			ance	in this	this
4th Item of Policy				policy	policy
5th Item of Policy					

TOTAL

Total amount claimed of this company under above named policy \$

The said account is just and true.

The said property was (damaged or destroyed) by fire at or about o'clock m. on the day of 19....., and was then occupied as

The loss did not occur nor was the fire caused through any wilful act or neglect or the procurement, means or connivance of the insured.

The amount of other insuring companies were as follows:

Name of Company.....
Amount of Insurance.....

The property described in the said policy belonged at the time of the fire hereinafter mentioned to.....
and no other person or persons had any interest therein except as follows:

Name of person.....
Name and extent of interest, lien or encumbrance.....
The movable property insured was deposited in.....
at the time of the fire.

I,do solemnly declare that the foregoing claims and statements are to the best of my knowledge and belief true in every particular, and I make this solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath, and by virtue of the Canada Evidence Act.

Declared before me at.....
this.....day of.....
.....
.....
A Commissioner for Oaths in and
for the Yukon Territory.)
(Insured)

R.O. 1958, c. 57, Sched. Part I; 1959 (1st) c. 4, s. 2.

SCHEDULE I

PART II

(Section 116)

STATUTORY CONDITIONS
AUTOMOBILE

MATERIAL CHANGE IN RISK

In these statutory conditions, unless the context otherwise requires the word "insured" means a person insured by the policy, whether named or not.

1. (1) The insured named in the policy shall promptly notify the insurer, or its local agent, in writing, of any change in the risk material to the contract and within his knowledge.

(2) Without restricting the generality of the foregoing the words "change in the risk material to the contract" shall include

- (a) any change in the insurable interest of the insured named in the policy in the automobile, by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act*; and in cases other than motor vehicle liability policies;
- (b) any mortgage, lien or encumbrance affecting the automobile after the application for the policy; and
- (c) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the policy or any portion thereof.

PROHIBITED USE

2. (1) The insured shall not drive or operate the automobile,

- (a) while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile;
- (b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile, or while he is under the age of sixteen years or under such other age as is prescribed by the law of the province or Territory where he resides at the time the policy is issued;
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile,

- (a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile;

- (b) by any person, unless such person is for the time being either authorized by law or qualified to drive or operate the automobile, or while such person is under the age of sixteen years or under such other age as is prescribed by law;
- (c) for any illicit or prohibited trade or transportation; or
- (d) in any race or speed test.

USES PROHIBITED WITHOUT PERMISSION

3. Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used,

- (a) to carry explosives; or
- (b) as a taxicab, public omnibus, livery, jitney or sightseeing conveyance or for carrying passengers for compensation or hire.

4. In the case of indemnity afforded by motor vehicle liability policies, the automobile shall not be used for the towing of a trailer owned or hired by the insured that is not covered by like indemnity by the insurer; nor shall a trailer so covered by the policy be towed by an automobile owned or hired by the insured that is not covered by like indemnity by the insurer.

5. In cases other than motor vehicle liability policies the insurer shall not be liable for loss or damage that is caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities, whether war be declared or not, or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.

INSURED TO GIVE NOTICE OF ACCIDENT AND CLAIM

6. (1) The insured shall promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident; shall verify by affidavit or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant.

CO-OPERATION OF INSURED AND INSURER IN CLAIM SETTLEMENT

(2) The insured shall not voluntarily assume any liability or settle any claim except at his own cost. The insured shall not interfere in any negotiations for settlement or in any legal proceeding, but, whenever requested by the insurer, shall aid in securing information and evidence and the attendance of any witness, and shall cooperate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

LOSS OR DAMAGE TO THE AUTOMOBILE

7. (1) Upon the occurrence of loss of or damage to the automobile, the insured shall, if the loss or damage is covered by this policy,

- (a) forthwith give notice thereof, in writing, to the insurer, with fullest information obtainable at the time and shall, at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the automobile from further loss or damage; or until the insurer has had a reasonable time to make the examination provided for in statutory condition 9;
- (b) deliver to the insurer, within ninety days of the date of the loss or damage, a statutory declaration stating so far as the insured knows or believes, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile, and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

EXAMINATION OF INSURED

(2) The insured shall submit to examination under oath, and shall produce for examination, at such reasonable place as is designated by the insurer or its representative, all documents in his possession or control which relate to the matters in question, and shall permit extracts and copies thereof to be made.

INSURER LIABLE FOR CASH VALUE OF AUTOMOBILE

(3) The insurer shall not be liable beyond the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to the actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the automobile or any part thereof with material of like kind and quality; provided that in the event of any part of the automobile being obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of the part at the time of loss or damage not exceeding the maker's last list price.

(4) Except where an appraisal has been had, the insurer instead of making payment may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality, giving written notice of its intention so to do within seven days after the receipt of the proofs of loss; but there can be no abandonment of the automobile to the insurer without its consent; in the event of the insurer exercising such option, the salvage, if any, shall revert to it.

IN CASE OF DISAGREEMENT

(5) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, such questions shall be determined by appraisers before recovery can be had hereunder, whether the right to recover on the policy is disputed or not, and independently of all other questions.

APPRAISAL

(6) The insured and the insurer shall each select one appraiser, and the two so chosen shall then select a disinterested umpire. Thereafter the two appraisers together shall estimate or appraise the loss or damage, stating separately sound value and damage, or determine the adequacy of such repairs or replacements, and, failing to agree, shall submit their differences to the umpire.

APPOINTMENT OF APPRAISERS

(7) In case either party fails to name the appraiser within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting, or dies, a judge of a superior, county or district court having jurisdiction in the county or district in which the appraisal is to be made may appoint such appraiser or umpire on the application of the insured or of the insurer.

AWARD

(8) An award in writing of the two appraisers, or of one appraiser and the umpire, shall determine the nature and extent or adequacy of the repairs and replacements made or required, or the amount of loss or damage.

COST OF APPRAISAL

(9) Each party shall pay the appraiser selected by him, and shall bear equally the other expenses of the appraisal and of the umpire.

WAIVER

8. Neither the insurer nor the insured shall be deemed to have waived any term or condition of this policy by any act relating to the appraisal or to the delivery and completion of proofs of loss, or to the investigation or adjustment of the claim.

INSPECTION OF AUTOMOBILE

9. The insurer shall be permitted at all reasonable times to inspect the automobile and its equipment.

TIME AND MANNER OF PAYMENT OF INSURANCE MONEY

10. (1) An insurer shall pay the insurance money for which it is liable under a contract within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 7, within fifteen days after the award is rendered by the appraisers.

WHEN ACTION MAY BE BROUGHT

(2) The insured may not bring an action to recover the amount of a claim under the policy unless the requirements of statutory conditions 6 and 7 are complied with nor until the amount of the loss has been ascertained as therein provided, or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

LIMITATION OF ACTIONS

(3) Every action or proceeding against an insurer under a contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose, and not afterwards.

WHO MAY GIVE NOTICE AND PROOFS OF CLAIM

11. Notice of claim may be given and proof of claim may be made by the agent of the insured named in the policy in case of absence or inability of such insured to give the notice or make

the proof, such absence or inability being satisfactorily accounted for, or in the like case, or if such insured refuses to do so, by a person to whom any part of the insurance money is payable.

CANCELLATION

12. (1) The policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force.

(2) This policy may be cancelled at any time by the insurer giving to the insured named in the policy fifteen days' notice in writing of cancellation by registered post, whether registered within or without Canada, or five days' notice of cancellation personally delivered, and refunding the excess of paid premium beyond the pro rata premium for the expired time. Repayment of excess premiums may be made by money, post office order, postal note or cheque. Such repayment shall accompany the notice, and in such case the fifteen days above mentioned shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

(3) In this condition the expression "paid premium" means premium actually paid by the insured to the insurer or its agent, and does not include any premium or part thereof paid to the insurer by an agent unless actually paid to the agent by the insured.

NOTICE

13. (1) Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in Canada. Written notice may be given to the insured named in the policy by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

(2) In this condition the expression "registered" shall mean registered within or without Canada.

R.O. 1958, c. 57, Sched. Part II.

SCHEDULE

PART III

(Section 145)

STATUTORY CONDITIONS
ACCIDENT AND SICKNESS

THE CONTRACT

1. (1) This policy, including the endorsements, insertions or riders, if any, and the application for the contract if attached to the policy, constitutes the entire contract and no agent has authority to change the contract or waive any of its provisions.

WAIVER

(2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

MATERIAL FACTS

2. No statement made by the insured on his application for this contract may be used in defence of a claim under, or to avoid, this contract unless it is contained in the written application for the contract and unless a copy of the application, or such part thereof as is material to the contract, is endorsed upon, inserted in or attached to the policy when issued.

CHANGES IN OCCUPATION

3. (1) If, after this policy is issued, the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this policy, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this policy to an occupation classified by the insurer as less hazardous and so advises the insurer in writing, the insurer shall either

(a) reduce the premium rate, or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

RELATION OF EARNINGS TO INSURANCE

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

TERMINATION BY INSURED

5. The insured may terminate the contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Territory or by delivery thereof to an authorized agent of the insurer and the insurer shall, upon surrender of this policy, refund the amount of premium paid in excess of the short rate premium for the expired time according to the table in use by the insurer at the time of termination.

TERMINATION BY INSURER

6. (1) The insurer may terminate the contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the pro rata premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given and the ten days shall begin on the day following the arrival of the notice at the post office to which it is addressed.

NOTICE OF PROOF OF CLAIM

7. (1) The insured or his agent, or a beneficiary entitled to make a claim or his agent, shall

(a) give written notice of claim to the insurer

(i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Territory, or

(ii) by delivery thereof to an authorized agent of the insurer not later than thirty days from the date of the accident or the beginning of the disability due to sickness,

- (b) within ninety days from the date of the accident or the beginning of the disability due to sickness for which the claim is made, furnish to the insurer such proof of claim as is reasonably possible in the circumstances of the happening of the accident or sickness and the loss occasioned thereby, and
- (c) if so required by the insurer, furnish a certificate as to the cause and nature of the accident or sickness for which the claim is made and as to the duration of the disability caused thereby, from a medical practitioner legally qualified to practise in the Territory.

FAILURE TO GIVE NOTICE OR PROOF

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed in this statutory condition will not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible and in no event later than one year from the date of the accident or the beginning of the disability due to sickness and if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

INSURER TO FURNISH FORMS FOR PROOF OF CLAIM

8. The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the happening and character of the accident or sickness giving rise to the claim and of the extent of the loss.

RIGHT OF EXAMINATION

9. The insurer has the right, and the claimant shall afford to the insurer an opportunity, to examine the person of the person insured when and as often as it may reasonably require, while the claim hereunder is pending and also, in the case of the death of the person insured to make an autopsy subject to any law of the Territory relating to autopsies.

WHEN MONEYS PAYABLE OTHER THAN FOR LOSS OF TIME

10. All moneys payable under this contract other than benefits for loss of time shall be paid by the insurer within sixty days after it has received proof of claim.

WHEN LOSS OF TIME BENEFITS PAYABLE

11. The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payments shall be made thereafter within each succeeding

sixty-day period while the insurer remains liable for the payments if the insured, whenever required to do so, furnished prior to payment proof of continuing disability.

LIMITATION OF ACTIONS

12. An action or proceeding against the insurer for the recovery of a claim under this contract shall not be begun after one year from the date on which the cause of action arose.

R.O. 1958, c. 57, Sched. Part III.

CHAPTER I-3

INTERPRETATION ORDINANCE

SHORT TITLE

1. This ordinance may be cited as the *Interpretation Ordinance*. R.O. 1958, c. 58, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“enactment” means an Ordinance or a regulation or any portion of an Ordinance or a regulation; “enactment”

“public officer” includes any person in the public service of the Territory “public officer”

(a) who is authorized to do or enforce the doing of any act or thing or to exercise any power, or

(b) upon whom any duty is imposed by or under any public Ordinance;

“regulation” includes any rule, rule of court, order prescribing regulations, tariff of costs or fees, form, by-law, resolution or order made in the execution of a power given by an enactment; “regulation”

“repeal” includes revoke or cancel. “repeal”

(2) For the purposes of this Ordinance, an enactment that has expired or lapsed or otherwise ceased to have effect shall be deemed to be repealed. R.O. 1958, c. 58, s. 2. Lapsed enactment deemed repealed

APPLICATION

3. (1) Every provision of this Ordinance extends and applies to every enactment, unless a contrary intention appears, enacted or made before or after the commencement of this Ordinance. Application to all Ordinances

(2) Where an enactment contains an interpretation section or provision, it shall be read and construed as being applicable only if the contrary intention does not appear. Not if contrary intention appears

(3) The provisions of this Ordinance apply to the interpretation of this Ordinance. This Ordinance applies to itself

Rule not
inconsistent not
excluded

(4) Nothing in this Ordinance shall be construed to exclude the application to any enactment of a rule of construction applicable thereto and not inconsistent with this Ordinance. R.O. 1958, c. 58, s. 3.

OPERATION

Date of coming
into force and
expiration of
Ordinances

4. (1) Where an enactment is expressed to come into force or operation on a particular day, or on a day fixed by proclamation or otherwise, it shall be construed as coming into force or operation immediately on the expiration of the previous day; and where an enactment is expressed to expire, lapse or otherwise cease to have effect on a particular day, it shall be construed as ceasing to have effect immediately on the commencement of the following day.

Powers exercisable
under
Ordinances not
coming into
force on assent

(2) Where an enactment is not to come into force or operation immediately on its being passed or made and it confers power

- (a) to make appointments,
- (b) to hold elections,
- (c) to make regulations,
- (d) to make, grant or issue instruments,
- (e) to give notices,
- (f) to prescribe forms, or
- (g) to do any other thing,

that power may, for the purpose of making the enactment effective upon its commencement, be exercised at any time after the passing or making thereof, but a regulation made thereunder before the commencement of the enactment has no effect until the commencement of the enactment, except in so far as may be necessary to make the enactment effective upon its commencement. R.O. 1958, c. 58, s. 4.

CONSTRUCTION

Ordinance
always speaking

5. (1) The law is considered as always speaking, and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise so that effect may be given to each enactment according to its true spirit, intent and meaning.

"Now" "Next"
"Heretofore"
"Hereafter"

(2) The expression "now", "next", "heretofore" or "hereafter" shall be interpreted as having reference to the time when the enactment or the part or provision thereof containing the expression came into force.

- (3) The expression "shall" shall be read as imperative and the expression "may" as permissive and empowering. "Shall" "May"
- (4) The expression "herein" used in a section or provision of an enactment relates to the whole enactment and not to that section or provision only. "Herein"
- (5) Definitions or rules of interpretation contained in an enactment, unless the contrary intention appears, apply to the construction of the provisions of the enactment that contain those definitions or rules of interpretation, as well as to the other provisions of the enactment. R.O. 1958, c. 58, s. 5. Definitions or rules of interpretation
6. (1) Every Ordinance is a public Ordinance unless by express provision it is declared to be a private Ordinance. R.O. 1958, c. 58, s. 6. Ordinance to be deemed public
7. (1) No provision in a private Ordinance affects the rights of a person except only as therein mentioned or referred to. R.O. 1958, c. 58, s. 7. Provisions in private Ordinances
8. (1) The preamble of an enactment shall be read as a part thereof intended to assist in explaining its purpose and object. R.O. 1958, c. 58, s. 8. Preamble part of Ordinance
9. (1) Marginal notes and references to former enactments form no part of an enactment but shall be deemed to have been inserted for convenience only. R.O. 1958, c. 58, s. 9. Marginal notes and references
10. (1) Every enactment and every provision thereof shall be deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best insures the attainment of its objects. R.O. 1958, c. 58, s. 10. Every Ordinance remedial
11. (1) Where an enactment confers power to make regulations or to grant, make or issue an order, writ, warrant, scheme or letters patent, expressions used therein shall, unless the contrary intention appears, have the same respective meanings as in the enactment conferring the power. R.O. 1958, c. 58, s. 11. Expressions in regulations have same meaning as in enactment
12. (1) No provision in an enactment is binding on Her Majesty or affects Her Majesty or Her Majesty's rights or prerogatives in any manner whatsoever unless it is expressly stated therein that Her Majesty is bound thereby. R.O. 1958, c. 58, s. 12. Her Majesty not bound
13. (1) Words in an enactment establishing a corporation Powers vested in corporation

- (a) vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal and to alter or change it at pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purposes for which the corporation is constituted and to alienate the same at pleasure,
- (b) vest in a majority of the members of the corporation the power to bind the others by their acts, and
- (c) exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment incorporating them. R.O. 1958, c. 58, s. 13.

Proclamation issued under Order of Commissioner

14. (1) When the Commissioner is authorized to do an act by proclamation, it is to be understood that the proclamation is a proclamation issued under an Order of the Commissioner, but it is not necessary to mention in the proclamation that it is issued under the Order. R.O. 1958, c. 58, s. 14.

Public officers appointed during pleasure

15. (1) Every public officer appointed before or after the commencement of this Ordinance by or under the authority of an enactment or otherwise, holds office during pleasure only, unless it is otherwise expressed in the enactment or in his commission or appointment. R.O. 1958, c. 58, s. 15.

Implied powers to remove public officers and fix remuneration

16. (1) Words authorizing the appointment of a public officer include the power of

- (a) removing or suspending him,
- (b) reappointing or reinstating him,
- (c) appointing another in his stead or to act in his stead, and
- (d) fixing his remuneration and varying or terminating it,

in the discretion of the authority in whom power of appointment is vested.

Implied powers of successors in office

(2) Words directing or empowering a public officer to do any act or thing, or otherwise applying to him by his name of office, include his successors in the office and his or their deputy.

Power to be exercised by holder of office

(3) Where a power is conferred or a duty imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the execution of the powers and duties of the office. R.O. 1958, c. 58, s. 16.

Implied powers

17. (1) In an enactment

- | | |
|--|---|
| (a) where anything is directed to be done by or before a public officer, a magistrate or a justice of the peace, it shall be done by or before one whose jurisdiction or power extends to the place where such thing is to be done ; | Officer to act within jurisdiction |
| (b) where power is given to the Commissioner or a public officer to do or enforce the doing of any act or thing, all such powers shall be deemed to be also given as are necessary to enable him to do or enforce the doing of the act or thing ; | Additional powers |
| (c) where any act or thing is required to be done by more than two persons, a majority may do it ; | Majority may do any act |
| (d) where a power is conferred or a duty imposed the power may be exercised and the duty shall be performed, from time to time, as occasion requires ; | Continuance of powers |
| (e) where power is conferred to make regulations, the power shall be construed as including power, exercisable in like manner and subject to like consent and conditions, if any, to rescind, revoke, amend or vary the regulations and make others ; | Revocation and alteration |
| (f) where a form is prescribed, deviations therefrom not affecting the substance nor calculated to mislead, shall not invalidate the form used ; | Deviation in forms |
| (g) words importing male persons include female persons and corporations ; | Sex |
| (h) words in the singular include the plural, and words in the plural include the singular ; | Number |
| (i) where a word is defined, other parts of speech and tenses of that word have corresponding meanings ; | Corresponding meanings of parts of speech |
| (j) where the time limited for the doing of anything expires or falls upon a holiday, the time so limited extends to and the thing may be done on the first following day that is not a holiday ; | Holidays |
| (k) where a number of days not expressed to be "clear days" is prescribed, it shall be reckoned exclusively of the first day and inclusively of the last, but where the days are expressed to be "clear days" or where the term "at least" is used both the first day and the last shall be excluded ; and | Reckoning time "Clear days" |
| (l) a reference to time shall be deemed to be a reference to standard time. R.O. 1958, c. 58, s. 17. | Time |

REFERENCES

Citation of Ordinances or Acts

18. (1) In an enactment or document, an Ordinance of the Territory or of the Northwest Territories, or an Act of any province or of Canada, may be cited by reference to its title or short title, if any, either with or without reference to the chapter, or by reference to the number of the chapter of the Revised Ordinances or Revised Statutes or of the Ordinances or Statutes for the year of Our Lord or the regnal year in which the Ordinance or Act was passed.

Citation includes amendments

(2) A citation of or reference to an enactment of the Territory or the Northwest Territories or to an Act of a province or of Canada shall be read as a citation of or reference to the enactment or Act as amended. R.O. 1958, c. 58, s. 18.

Reference to enactment as printed by authority

19. (1) A reference in an enactment by number or letter to any section, subsection, paragraph, subparagraph, clause, subclause or other division or line of another enactment shall be read as a reference to the section, subsection, paragraph, subparagraph, clause, subclause or other division or line of such other enactment as printed by authority of law.

Citations of sections to be inclusive

(2) A reference in an enactment by number or letter to two or more parts, divisions, sections, subsections, paragraphs, subparagraphs, clauses, subclauses, schedules or forms in an enactment shall be read as including the number or letter first mentioned and the number or letter last mentioned.

Reference to parts of Ordinance

(3) A reference in an enactment to a part, division, section, schedule or form shall, unless the contrary intention appears, be read as a reference to a part, division, section, schedule or form of the enactment in which the reference occurs.

Reference in section

(4) A reference in an enactment to a subsection, paragraph, subparagraph, clause or subclause shall, unless the contrary intention appears, be read as a reference to a subsection, paragraph, subparagraph, clause or subclause of the section, subsection, paragraph, subparagraph, or clause, as the case may be, in which the reference occurs.

Reference to regulations

(5) A reference in an enactment to regulations shall, unless the contrary intention appears, be read as a reference to regulations made under the enactment in which the reference occurs. R.O. 1958, c. 58, s. 19.

WORDS AND PHRASES

Definitions

20. (1) In an enactment, the expression

- “bank” or “chartered bank” means a bank to which the *Bank Act* applies; “bank” or “chartered bank”
- “commencement” when used with reference to an enactment or any provision thereof means the time at which the enactment or provision comes into force or operation; “commencement”
- “Commissioner” means the Commissioner of the Yukon Territory or the person executing the office and functions of the Commissioner of the Yukon Territory; “Commissioner”
- “Commissioner in Council” means the Commissioner acting by and with the advice and consent of the Council of the Territory; “Commissioner in Council”
- “Council” means the Council of the Yukon Territory; “Council”
- “Court” means the Territorial Court of the Yukon Territory; “Court”
- “felony” means any crime that before the passing of the *Criminal Code, 1914*, would have been a felony under the law of Canada; “felony”
- “fiscal year” when used with respect to the government of the Territory, means the twelve months ending the 31st day of March; “fiscal year”
- “Her Majesty”, “His Majesty”, “the Queen”, “the King”, or “the Crown” means the Sovereign of the United Kingdom, Canada and Her other Realms and Territories, and Head of the Commonwealth; “Her Majesty” “the Crown” “the Queen”
- “holiday” includes Sunday, New Year’s Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, Discovery Day (being the Friday immediately preceding the 18th day of August), Labour Day, Remembrance Day, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign and any other day appointed by proclamation for a general fast or thanksgiving, and whenever a holiday other than Remembrance Day falls on a Sunday, the expression “holiday” includes the following day; “holiday”
- “judge” means a judge of the Court; “judge”
- “justice” means a justice of the peace and includes two or more justices when two or more justices act or have jurisdiction and also any person having the power or authority of two or more justices of the peace; “justice”
- “magistrate” includes justice of the peace; “magistrate”

"misdemeanour"	"misdemeanour" means any crime or offence that before the passing of the <i>Criminal Code, 1914</i> , would have been a misdemeanour under the law of Canada ;
"month"	"month" means calendar month ;
"oath" or "affidavit"	"oath", or "affidavit" in the case of persons for the time being allowed or required by law to affirm or declare instead of swearing, includes affirmation and declaration and "swear" in the like case includes "affirm" and "declare" ;
"Ordinance"	"Ordinance" means an Ordinance of the Yukon Territory ;
"peace officer"	"peace officer" means a peace officer as defined in the <i>Criminal Code</i> ;
"person"	"person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person ;
"prescribe"	"prescribe" means prescribe by regulation of the Commissioner unless otherwise provided.
"proclamation"	"proclamation" means a proclamation under the seal of the Territory ;
"province"	"province" includes the Northwest Territories ;
"security"	"security" means sufficient security ;
"surety"	"surety" means sufficient surety ;
"Territory"	"Territory" means the Yukon Territory as defined in the <i>Yukon Act</i> ;
"United Kingdom"	"United Kingdom" means the United Kingdom of Great Britain and Northern Ireland ;
"United States"	"United States" means the United States of America ;
"will"	"will" includes codicil ;
"writing" or "written"	"writing", "written" or any term of like import includes words printed, painted, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in a visible form ;
"year"	"year" means calendar year ;
" <i>Yukon Gazette</i> "	" <i>Yukon Gazette</i> " means the Yukon Official Gazette.

Names commonly used

(2) In an enactment, a name commonly applied to a country, place, body, corporation, society, officer, functionary, person, party or thing means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied although the name is

not the formal or extended designation thereof. R.O. 1958, c. 58, s. 20; 1967 (2nd) c. 8, s. 1; 1968 (4th) c. 10, s. 3.

REPEAL AND AMENDMENT

21. (1) An amending enactment shall, as far as consistent with the tenor thereof, be construed as part of the enactment that it amends. R.O. 1958, c. 58, s. 21. Amendment one
with Ordinance

22. (1) Where an enactment is repealed in whole or in part, the repeal or revocation does not Effect of repeal

- (a) revive an enactment or thing not in force or existing at the time when the repeal takes place,
- (b) affect the previous operation of the enactment so repealed or anything duly done or suffered thereunder,
- (c) affect a right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed,
- (d) affect an offence committed against or a violation of the provisions of the enactment so repealed, or any penalty, forfeiture or punishment incurred in respect thereof, or
- (e) affect an investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and an investigation, legal proceedings or remedy of the kind described in paragraph (e) may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the enactment had not been repealed or revoked.

(2) Where an enactment is repealed in whole or in part and other provisions are substituted therefor, Effect of repeal
and substitution

- (a) every person acting under the enactment so repealed shall continue to act as if appointed under the provisions so substituted until another is appointed in his stead;
- (b) every bond and security given by a person appointed under the enactment so repealed remains in force, and all offices, books, papers and things made or used under the repealed enactment shall continue to be used as before the repeal as far as consistent with the substituted provisions;
- (c) every proceeding taken under the enactment so repealed shall be taken up and continued under and in conformity with the provisions so substituted, as far as consistently may be;

(d) in the recovery or enforcement of penalties and forfeitures incurred and in the enforcement of rights, existing or accruing under the enactment so repealed or in a proceeding in relation to matters that have happened before the repeal, the procedure established by the substituted provisions shall be followed as far as it can be adapted thereto; and

(e) when any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions or substituted, the penalty, forfeiture or punishment if imposed or adjudged after the repeal shall be reduced or mitigated accordingly. R.O. 1958, c. 58, s. 22.

Effect of repeal and substitution

23. (1) Where an enactment is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation,

Regulations

(a) all regulations made under the repealed enactment remain in force, in so far as they are not inconsistent with the substituted enactment, until they are annulled or others made in their stead, and

Reference

(b) a reference, in an unrepealed enactment to the repealed enactment, shall, as regards a subsequent transaction, matter or thing, be read as a reference to the provisions of the substituted enactment relating to the same subject matter as the repealed enactment but where there are no provisions in the substituted enactment relating to the same subject matter, the repealed enactment shall be read as unrepealed as far as is necessary to maintain or give effect to the unrepealed enactment.

Reference to substituted Ordinance or Act

(2) Where an Ordinance of the Northwest Territories or an Act of a province or of Canada is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation, a reference in an enactment of the Yukon Territory to the repealed Ordinance or Act shall, as regards a subsequent transaction, matter or thing, be construed as a reference to the provisions of the substituted Ordinance or Act relating to the same subject matter as the repealed Ordinance or Act. R.O. 1958, c. 58, s. 23.

Repeal does not imply enactment in force

24. (1) The repeal of an enactment in whole or in part is not and shall not be deemed to be or to involve a declaration that the enactment was or was considered by the Commissioner in Council or other person or body by whom the enactment was passed or made to have been previously in force.

(2) The amendment of an enactment is not and shall not be deemed to be or to involve a declaration that the law under the enactment was or was considered by the Commissioner in Council or other person or body by whom the enactment was passed or made to have been different from the law as it is under the enactment as amended.

Amendment does not imply a change in the law

(3) The repeal of an enactment in whole or in part or the amendment of an enactment is not and shall not be deemed to be or to involve any declaration as to the previous state of the law.

Repeal does not declare previous law

(4) A re-enactment, revision, consolidation or amendment of an enactment is not and shall not be deemed to be an adoption of the construction that has by judicial decision or otherwise been placed upon the language used in the enactment or upon similar language. R.O. 1958, c. 58, s. 24.

Re-enactment is not adoption of previous construction

25. Whenever a part of an enactment is repealed and other provisions are substituted therefor, the substituted provisions, unless the contrary intention appears, take effect from the day the repealing enactment comes into force. R.O. 1958, c. 58, s. 25.

Substituted enactments take effect the day of repeal

ENFORCEMENT OF THE LAW

26. (1) Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing an enactment or municipal by-law may be brought summarily before a justice of the peace under the provisions of the *Criminal Code* relating to summary convictions; and the words "on summary conviction" wherever they appear in an enactment or by-law shall refer to and mean under and by virtue of these provisions of the *Criminal Code*.

"Summary conviction"

(2) When no time is specially limited in the enactment or law relating to the particular offence for making a complaint or laying an information, the complaint shall be made or the information laid within six months from the time when the matter of the complaint or information arose. R.O. 1958, c. 58, s. 26.

Complaint on information within six months

27. (1) Any duty, penalty, fine or sum of money or the proceeds of a forfeiture under any law of the Territory, if no other provision is made respecting it, constitutes territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 58, s. 27.

Penalty, fines to form part of V.C.R.F.

Recovery of
penalty and
forfeiture

28. (1) Where a pecuniary penalty or a forfeiture is imposed for the contravention of an enactment, then, if the provisions of the *Criminal Code* relating to summary convictions are not applicable to the case and if no other mode is prescribed for the recovery of such penalty or forfeiture or if the mode prescribed is not applicable to the case, the penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Attorney General of Canada or of a private party suing for the Crown as well as for himself; and, if no other provision is made for the appropriation of the penalty or forfeiture, one-half shall constitute territorial revenue and shall be paid into and form part of the Yukon Consolidated Revenue Fund, and the other half shall belong to the private plaintiff, if any, and if there is none the whole shall constitute territorial revenue. R.O. 1958, c. 58, s. 28.

Power to award
both fine and
imprisonment

29. (1) Where, under any enactment now in force or under any future enactment, a court or person is empowered or required to award imprisonment, the court or such person may in its discretion, unless such future enactment otherwise provides, award imprisonment with or without hard labour. R.O. 1958, c. 58, s. 29.

ORDINANCES

Form of enact-
ing clause

30. (1) The following words may be inserted in the preamble of Ordinances and shall indicate the authority by virtue of which they are passed: "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. 1958, c. 58, s. 30.

Form of preamble

31. (1) After the insertion of the words referred to in section 30, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, if any, and which shall, with these considerations or reasons, constitute the entire preamble, the various clauses of the Ordinances shall follow in a concise and enunciative form. 1958, c. 58, s. 31.

Endorsement of
assent

32. (1) The Clerk of the Council shall endorse on every Ordinance immediately after the title thereof, the day, month and year when the same was assented to by the Commissioner and such endorsement shall be taken to be part of the Ordinance and the date of such assent shall be the date of the commencement of the Ordinance if no later commencement is provided therein. R.O. 1958, c. 58, s. 32.

33. (1) All Ordinances heretofore passed, now passed and hereafter to be passed shall be and continue to remain of record in the custody of the Clerk of the Council. R.O. 1958, c. 58, s. 33. Ordinances to be in custody of Clerk

34. (1) The Clerk of the Council shall affix the seal of the Territory to certified copies of all Ordinances intended for transmission to the Governor in Council or required to be produced before courts of justice and in any other case that the Commissioner may direct; and such certified copies shall be held to be duplicate originals and also to be evidence (as if printed by lawful authority) of such Ordinances and of their contents. R.O. 1958, c. 58, s. 34. Certified copies of Ordinances

35. (1) The Clerk of the Council shall furnish a certified copy of any ordinance to any person upon receiving the prescribed fee. Clerk to supply copies of Ordinances

(2) The Clerk of the Council shall place at the foot of every copy required to be certified a written certificate duly signed and authenticated by him to the effect that it is a true copy; and in the case of any Ordinance disallowed after it came into force, "but disallowed by the Governor General in Council, which disallowance took effect on the day of 19.....". Certificate of Clerk on true copies

(3) The Commissioner may prescribe the fees to be charged under this section. R.O. 1958, c. 58, s. 35; 1971 (1st) c. 20, s. 12(1) (2).

STANDARD TIME

36. (1) Subject to this section, standard time shall be reckoned as nine hours behind Greenwich Time and called Yukon Standard Time. Reckoning of standard time

(2) Notwithstanding subsection (1), the Commissioner may make regulations varying the manner of reckoning standard time. R.O. 1958, c. 58, s. 36. Regulations varying standard time

TABLING

37. (1) A copy of every order, rule or regulation made by the Commissioner pursuant to any Ordinance shall be laid before the Council as soon as conveniently may be after the making thereof. 1959 (1st) c. 5, s. 1. Orders, rules and regulations to be tabled

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER I-4

INTESTATE SUCCESSION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Intestate Succession Ordinance*. R.O. 1958, c. 59, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
 “estate” includes both real and personal property ; “estate”
 “issue” includes all lawful descendants of the ancestor. R.O. 1958, c. 59, s. 2. “issue”

DISTRIBUTION

3. (1) Subject to the provisions of section 18

(a) Where a person dies intestate leaving a widow and one child, one-half of his estate shall go to the widow. Widow's share where widow and child survive intestate

(b) Where a person dies intestate leaving a widow and children, one-third of his estate shall go to the widow. Widow's share where widow and children survive intestate

(c) Where a child of an intestate has died leaving issue and such issue is alive at the date of the intestate's death, the widow shall take the same share of the estate of the intestate as if the child had been living at that date. R.O. 1958, c. 59, s. 3; 1965 (2nd) c. 7, s. 1. Widow's share where widow and issue of children survive intestate

4. (1) Where a person dies intestate leaving issue, his estate shall be distributed, subject to the rights of the widow, if any, *per stirpes* among such issue. R. O. 1958, c. 59, s. 4. Distribution to issue of intestate

5. (1) Where a person dies intestate leaving a widow but no issue, his whole estate shall go to his widow, R.O. 1958, c. 59, s. 5; 1962 (1st) c. 19, s. 1. Distribution where widow only survives intestate

6. (1) Where a person dies intestate leaving no widow or issue, his estate shall go to his father and mother in equal shares if both are living, but if either of them is dead the estate shall go to the survivor. R.O. 1958, c. 59, s. 6. Distribution to father and mother

Distribution to
brothers, sisters
and issue of
brothers and
sisters

7. (1) Where a person dies intestate leaving no widow or issue or father or mother, his estate shall go to his brothers and sisters in equal shares, and if any brother or sister is dead the children of the deceased brother or sister shall take the share their parent would have taken, if living; but where the only persons entitled are children of deceased brothers and sisters, they shall take *per capita*. R.O. 1958, c. 59, s. 7.

Distribution to
next-of-kin

8. (1) Where a person dies intestate leaving no widow, issue, father, mother, brother or sister and no children of any deceased brother or sister, his estate shall go to his next-of-kin. R.O. 1958, c. 59, s. 8.

Distribution
among next-of-
kin

9. (1) Where the estate goes to the next-of-kin, it shall be distributed equally among the next-of-kin of equal degree of consanguinity to the intestate and those who legally represent them; but in no case shall representation be admitted among collaterals after brothers' and sisters' children. R.O. 1958, c. 59, s. 9.

Degrees of
kindred

10. (1) For the purposes of this Ordinance, degrees of kindred shall be computed by counting upward from the intestate to the nearest common ancestor and then downward to the relative; and the kindred of the half-blood shall inherit equally with those of the whole-blood in the same degree. R.O. 1958, c. 59, s. 10.

Descendants and
relatives born
after intestate's
death

11. (1) Descendants and relatives of the intestate, begotten before his death but born thereafter, shall inherit as if they had been born in the lifetime of the intestate and had survived him. R.O. 1958, c. 59, s. 11.

Advanced by
portion to child

12. (1) Where a child of a person who has died wholly intestate has been advanced by the intestate by portion, the portion shall be reckoned, for the purposes of this section only, as part of the estate of the intestate distributable according to law; if the advancement is equal to or greater than the share of the estate that the child would be entitled to receive as above reckoned, the child and his descendants shall be excluded from any share in the estate; but if the advancement is not equal to such share, the child and his descendants shall be entitled to receive so much only of the estate of the intestate as is sufficient to make all the shares of the children in the estate and advancement equal as nearly as can be estimated.

Value of portion

(2) The value of any portion advanced shall be deemed to be that which has been expressed by the intestate or acknowl-

edged by the child in writing, otherwise the value shall be the value of the portion when advanced.

(3) The onus of proving that a child has been maintained or educated, or has been given money, with a view to a portion, shall be upon the person so asserting, unless the advancement has been expressed by the intestate, or acknowledged by the child, in writing. R.O. 1958, c. 59, s. 12. Onus of proof

13. (1) All such estate as is not disposed of by will shall be distributed as if the testator had died intestate and had left no other estate. R.O. 1958, c. 59, s. 13. Estate not disposed of by will

14. (1) Illegitimate children and their issue shall inherit from the mother as if the children were legitimate, and shall inherit as if the children were legitimate through the mother, if dead, any estate or portion thereof that she would have taken, if living, by gift, devise or descent from any other person. R.O. 1958, c. 59, s. 14. Illegitimate children

15. (1) Where an intestate, being an illegitimate child, dies leaving no widow or issue, his estate shall go to the mother, if living and if the mother is dead his estate shall go to the other children of the same mother in equal shares, and if any child is dead the children of the deceased child shall take the share their parent would have taken if living; but where the only persons entitled are children of the deceased children of the mother, they shall take *per capita*. R.O. 1958, c. 59, s. 15. Intestate being an illegitimate child

16. (1) The estate of a woman dying intestate shall be distributed in the same proportions and in the same manner as the estate of a man so dying, the word "husband" being substituted for "widow", the word "her" for "his", the word "she" for "he", and the word "her" for "him", where such words respectively occur in sections 3, 4, 5, 6, 7, 8, 11 and 15. R.O. 1958, c. 59, s. 16. Distribution of estate of intestate woman

17. (1) Where a wife has left her husband and is living in adultery at the time of his death she shall take no part of her husband's estate. Adultery of wife

(2) Where a husband has left his wife and is living in adultery at the time of her death, he shall take no part of his wife's estate. R.O. 1958, c. 59, s. 17. Adultery of husband

SPECIAL RELIEF

18. (1) Where a person domiciled in the Territory dies intestate leaving a spouse and a child or children under the age of twenty-one years, an application may be made to the Court by the spouse for an order directing that all the estate shall go to the spouse or such other order as the Court may see fit, the provisions of section 3 notwithstanding. 1965 (2nd) c. 7, s. 2.

19. (1) Any application hereunder may be made by notice of motion styled in the matter of the estate of the deceased. 1965 (2nd) c. 7, s. 2.

20. (1) Notice of any application shall be served upon the Public Administrator of the Yukon Territory and such other persons as the Court may direct and notice of the application shall be advertised in the *Yukon Gazette* at least 14 days before the notice is returnable. 1965 (2nd) c. 7, s. 2.

21. (1) Subject to this Ordinance the practice and procedure of the Court upon applications in chambers shall, so far as the same are found to be applicable, apply to proceedings under this Ordinance. 1965 (2nd) c. 7, s. 2.

22. (1) An application shall be supported by an affidavit of the applicant setting forth fully all the facts in support of the application. 1965 (2nd) c. 7, s. 2.

23. (1) In addition to the evidence adduced by the applicant, the Court may direct such other evidence to be given as it deems necessary. 1965 (2nd) c. 7, s. 2.

NOTE: This Ordinance is based on a model Act recommended by the Conference of Commissioners on Uniformity of Legislation in Canada.

CHAPTER J-1

JUDICATURE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Judicature Ordinance*. R.O. 1958, c. 60, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance	Definitions
“action” means a civil proceeding commenced in such manner as may be prescribed by this Ordinance or by rules of Court, and includes suit;	“action”
“cause” includes any action, suit or other original proceeding between a plaintiff and a defendant;	“cause”
“Clerk” or “Clerk of the Court” includes a deputy clerk;	“Clerk”
“Court” means the Territorial Court of Yukon Territory, and “file in” or “pay into” Court means to file with or pay to a Clerk of the Court, as the case may be;	“Court”
“defendant” includes a person served with any process, or served with notice of or entitled to attend any proceedings;	“defendant”
“execution creditor” includes an assignee of an execution creditor;	“execution creditor”
“judgment” includes decree;	“judgment”
“matter” includes every proceeding in the Court not in a case;	“matter”
“order” includes rule;	“order”
“party” includes a person served with notice of or attending any proceeding, although not named in the record;	“party”
“petitioner” includes every person making any application to the Court, either by petition, motion or summons, otherwise than as against a defendant;	“petitioner”
“plaintiff” includes a person asking relief, otherwise than by way of counterclaim as a defendant, against any other person by any form of proceedings, whether the same is taken by action, petition, motion, summons or otherwise;	“plaintiff”

- "rules of Court" "rules of Court" includes the rules in force by virtue of this Ordinance and any other rules made under the authority of this Ordinance;
- "sheriff" "sheriff" includes deputy sheriff;
- "verdict" "verdict" includes the finding of a jury and the decision of a judge. R.O. 1958, c. 60, s. 2.

JURISDICTION

Jurisdiction procedure and practice **3.** (1) The jurisdiction of a judge shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance and the rules of Court. R.O. 1958, c. 60, s. 3 .

Powers same as in court **4.** (1) A judge sitting in chambers, if he announces that he is sitting in Court, has and may exercise and enjoy all the powers and authorities, rights, privileges and immunities that he has when presiding over the trial of an action. R.O. 1958, c. 60, s. 5.

Judgment same as in court **5.** (1) Any judgment, decision, determination, rule, order or decree made by a judge while sitting in chambers after an announcement pursuant to section 4 has the same force and effect as if made while presiding over the trial of an action. R.O. 1958, c. 60, s. 5.

Power to make vesting orders **6.** (1) Where the Court has authority to order the execution of a deed of conveyance, transfer or assignment of any property, real or personal, the Court may by order vest such real or personal estate in such person or persons and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; and thereupon the order has the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest to the person in whom the estate or interest is so ordered to be vested, or in the case of a chose in action as if such chose in action had been actually assigned to the person in whom the chose in action is so ordered to be vested. R.O. 1958, c. 60, s. 6.

Jurisdiction as to alimony **7.** (1) The Court has jurisdiction to grant alimony to a wife who would be entitled to alimony by the law of England, or to a wife who would be entitled by the law of England to a divorce and to alimony as incident thereto, or to a wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her by the law of England to a decree for restitution of

conjugal rights; and alimony when granted shall continue until the further order of the Court.

(2) The Court may, after action brought, issue an order restraining the defendant in any action for alimony or upon the covenant for payment contained in a separation agreement from transferring or otherwise disposing of or encumbering his property, whether real or personal, pending the final disposition of such action save subject to any interest which the wife may subsequently acquire in the said property under any judgment of the Court. R.O. 1958, c. 60, s.7.

Restraining
order

RULES OF LAW

8. (1) In every civil cause or matter commenced in the Court, law and equity shall be administered by the Court according to the following rules:

Rules of law

(a) where a plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right, the Court shall give to such plaintiff or petitioner the relief that would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose;

Claim by
plaintiff or
petitioner upon
an equitable or
legal right

(b) where a defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, the Court shall give to every equitable defence so alleged such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in any suit or proceedings instituted in that Court for the same or a like purpose;

Defence to claim
for relief

(c) the Court may grant to a defendant, in respect of any equitable estate or right or other matter of equity and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as the defendant has properly claimed by his pleadings; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or

Claim by
defendant
against plaintiff
or third party

matter or not, who has been duly served with notice in writing of the claim pursuant to this Ordinance, or any order of the Court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose, and every person served with such notice shall thenceforth be deemed a party to the cause or matter with the same rights in respect of the defence against the claim as if he had been duly sued in the ordinary way by the defendant;

Recognition of equitable estates, etc

(d) the Court shall recognize and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would recognize and take notice of the same in any suit or proceeding duly instituted therein;

Granting of remedies

(e) the Court in the exercise of its jurisdiction in every cause or matter pending before it has power to grant and shall grant either absolutely or on such reasonable terms and conditions as to it seems just all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter, so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning any such matters avoided;

Relief against penalties and forfeitures

(f) subject to appeal as in other cases, the Court shall have power to relieve against all penalties and forfeitures and in granting such relief to impose such terms as to costs, expenses, damages, compensation and all other matters as the Court sees fit;

No cause of proceeding restrained by prohibition or injunction

(g) no cause or proceeding at any time pending in the Court shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained in England prior to the passing of *The Supreme Court Of Judicature Act, 1873*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto; except that nothing in this Ordinance shall be construed as preventing the Court from directing a stay of proceedings in any cause or matter pending before it if it sees fit; and any person, whether a party or not to any such cause or matter, who would have been entitled in

England, prior to the passing of *The Supreme Court of Judicature Act, 1873*, to apply to the Court to restrain the prosecution thereof, or who may be entitled to enforce by attachment or otherwise any judgment, decree, rule or order contrary to which all or any part of the proceedings in the cause or matter may have been taken may apply to the Court by motion in a summary way for a stay of proceedings in the cause or matter, either generally or so far as may be necessary for the purpose of justice; and the Court shall thereupon make such order as shall be just;

- (h) when default is made in payment of money due under a mortgage, whether made before or after the commencement of this Ordinance, or in the observance of a covenant contained therein, and under the terms of the mortgage by reason of such default the payment of other portions of the principal money is accelerated and such portions become presently due and payable, the mortgagor may, notwithstanding any provisions to the contrary and at any time before sale or before the grant of a final order of foreclosure, perform such covenant or pay such arrears as are in default, with costs to be taxed and the mortgagor shall thereupon be relieved from immediate payment of so much of the money secured by the mortgage as may not have become payable by lapse of time;
- (i) when default has occurred in making any payment due under an agreement for sale, whether made before or after the commencement of this Ordinance of land or in the observance of any covenant therein contained and under the terms of the agreement by reason of such default the payment of other portions of the money is accelerated and such portions become presently due and payable, the purchaser may, notwithstanding any provision to the contrary and at any time prior to final judgment in an action brought to enforce the rights of the vendor, perform such covenant or pay such arrears as are in default, with costs to be taxed, and the purchaser shall thereupon be relieved from immediate payment of so much of the purchase money as may not have become payable by lapse of time; and
- (j) where an action is brought to enforce any right, legal or equitable, the Court may permit the amendment of any pleading or other processing therein upon such terms as to costs or otherwise as it deems just notwithstanding that, between the time of the issue of the statement of claim and the application for amendment, the right of action would, but by reason of

Relief of
mortgagor in
default

Relief of
purchaser in
default

Amendment of
pleadings in
certain cases

action brought, have been barred by the provisions of any statute or Ordinance, if such amendment does not involve a change of parties other than a change caused by the death of one of the parties. R.O. 1958, c. 60, s. 8.

Jurisdiction in lunacy

9. (1) The jurisdiction of the Court with respect to mentally disordered persons and their property and estates shall, subject to the rules of Court, include that which in England is conferred upon the Lord High Chancellor by a Commission from the Crown under the sign manual. R.O. 1958, c. 60, s. 9.

Rules of law on certain matters

10. (1) The law to be administered in the Territory as to the matters next hereinafter mentioned shall be as follows:

Express trusts

(a) no claim of a *cestui que trust* against his trustee for any property held on an express trust or in respect of any breach of such trust shall be held to be barred by any limitations Ordinance;

Equitable waste

(b) an estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste unless an intention to confer such right expressly appears by the instrument creating such estate;

Merger

(c) there shall not be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity;

Suit by mortgagor for rents and profits

(d) a mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof has been given by the mortgagee may sue for such possession, or sue or distrain for the recovery of such rents or profits or to prevent or recover damages in respect of any trespass or other wrong relative thereto in his own name only unless the cause of action arises upon a lease or other contract made by him with any other person and in that case he may sue or distrain jointly, with such other person;

Disputed assignment of a debt or other chose in action

(e) where an assignment of a debt or other chose in action is made and the debtor, trustee or other person liable in respect of such debt or chose in action has had notice that such assignment is disputed by the assignor or anyone claiming under him or of any other opposing or conflicting claims to such debt or chose in action, the debtor, trustee or such other person may

- (i) call upon the several disputing and claiming persons to interplead concerning the debt or chose in action; or
- (ii) pay the amount of the debt or chose in action into Court under and in conformity with the *Trustee Ordinance*;
- (f) stipulations in contracts as to time or otherwise that would not in England, prior to the passing of *The Supreme Court of Judicature Act, 1873*, have been deemed to be or to have become of the essence of such contracts in a court of equity shall receive in the Court the same construction and effect as they would have received in equity; Construction of time stipulations in contracts
- (g) part performance of an obligation, either before or after a breach thereof, when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation; Effect of part performance
- (h) a mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that such order should be made; and such order may be made either unconditionally or upon such terms and conditions as the Court thinks just; and if an injunction is asked, either before or at or after the hearing of any cause or matter to prevent any threatened or apprehended waste or trespass, the injunction may be granted if the Court thinks fit whether the person against whom the injunction is sought is or is not in possession under any claim or title or otherwise, or, if out of possession, does or does not claim a right to do the act sought to be restrained under any color of title, and whether the estates claimed by both or by either of the parties are legal or equitable; Interlocutory mandamus or injunction
- (i) where the Court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act or for the specific performance of any covenant, contract or agreement, the Court may if it thinks fit award damages to the party injured either in addition to or in substitution for the injunction or specific performance, and the damages may be ascertained in such manner as the Court may direct, or the Court may grant such other relief as it may deem just; Damages in lieu of specific performance, etc.

- Orders of Court as against purchasers (j) an order of the Court under the authority of an Ordinance, or otherwise shall not as against a purchaser, whether with or without notice, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service;
- Infants (k) in all questions relating to the custody and education of infants the rules of equity shall prevail;
- Rules of equity prevail (l) whenever there is any conflict or variance between the rules of equity and common law with reference to the same matter, the rules of equity shall prevail;
- Wages of minors (m) minors may sue for wages in the same way as if of full age;
- Negligence of fellow workman no defence against employer (n) it is not a good defence in law to any action against an employer, or the successor or legal representative of an employer, for damages for the injury or death of an employee of such employer, that the injury or death resulted from negligence of an employee engaged in a common employment with the injured employee, any contract or agreement to the contrary notwithstanding;
- Declaratory judgments or orders (o) no action or proceeding is open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or can be claimed or not;
- Effect of giving time to a principal debtor (p) the giving of time to a principal debtor, or the dealing with or altering the security held by a principal creditor, does not of itself discharge a surety or guarantor; in such cases a surety or guarantor, but only in so far as he shows he was prejudiced, is entitled to set up such giving of time or dealing with or alteration of the security as a defence; and
- Power of Court to order sale of real estate (q) when in any cause or matter relating to real estate or any interest therein it appears necessary or expedient that the real estate or interest or any part thereof should be sold the Court may order the same to be sold, and any party bound by the order and in possession of the estate or interest, or in receipt of the rents or profits thereof, shall deliver up such possession or receipt to the purchaser, or such other person as may be thereby directed. R.O. 1958, c. 60, s. 10.

INTEREST

- Allowance of interest in special cases 11. (1) In addition to the cases in which interest is by law payable, or may by law be allowed, the Court may in all

cases where in the opinion of the Court the payment of a just debt has been improperly withheld, and it seems to the court fair and equitable that the party in default should make compensation by the payment of interest, allow interest for such time and at such rate as the Court may think right. R.O. 1958, c. 60, s. 11.

12. (1) On the trial of an issue, or on an assessment of damages upon a debt or sum certain, Interest on debts certain

- (a) payable by virtue of a written instrument at a certain time, interest may be allowed from the time when the debt or sum became payable; or
- (b) payable otherwise than by virtue of a written instrument at a certain time, interest may be allowed from the time when a demand of payment was made, in writing, informing the debtor that interest would be claimed from the date of the demand.

(2) In an action for the conversion of goods or for trespass *de bonis asportatis*, the jury, or the Court may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon. Interest by way of damages in certain actions

(3) Unless otherwise ordered by the Court, a verdict or judgment bears interest from the time of the rendering of the verdict or of giving the judgment, as the case may be, notwithstanding that the entry of judgment has been suspended by any proceeding in the action including an appeal. R.o. 1985, c. 60, s. 12. Interest on judgments

TENDER OF AMENDS IN CASE OF TORTS

13. (1) A person who has committed a wrong giving a cause of action for the recovery of damages to the person wronged may at any time before action tender amends, and the tender has the same effect as a tender in an action for the recovery of a debt. R.O. 1958, c. 60, s. 13. Tender in tort cases

RULES OF COURT

14. (1) Subject to this and any other Ordinance, the Rules of the Supreme Court of British Columbia in force from time to time shall, *mutatis mutandis*, be followed in all causes matters and proceedings, but the judges of the Court may make rules of practice and procedure, including tariffs of fees and costs in civil matters and fees and expenses of witnesses and interpreters in criminal matters, adding to or deleting Rules of Court

from those rules, or substituting other rules in their stead. R.O. 1958, c. 60, s. 14; 1960 (3rd) c. 5, s. 1.

CLERKS

- 15.** (1) There shall be a Clerk of the Court.
- (2) If a deputy clerk is appointed, he shall have the same powers and duties as the Clerk. R.O. 1958, c. 60, s. 16.
- 16.** (1) The Clerk shall have a seal of office in such form as the Commissioner may prescribe, by which proceedings in the court shall be certified and authenticated. R.O. 1958, c. 60, s. 16.
- 17.** (1) The duties of the clerk shall be
- (a) to attend at his office and keep it open on such days of the week, other than holidays, and during such hours as the Commissioner may fix;
- (b) on application of any person by himself or his agent
- (i) to receive all complaints and other papers required to be filed in Court,
- (ii) to issue all statements of claim, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of such matters, and
- (iii) to tax costs, enter judgments and record all judgments and orders pronounced, given or made;
- (c) to keep an account of all fines, fees and moneys payable or paid into Court and to enter all such amounts in proper books or accounts as may be prescribed;
- (d) to attend all trials before the Court unless his attendance is dispensed with by the Court; and
- (e) (i) The clerk shall on or before the 15th day of each month prepare a statement in the prescribed form in duplicate from the accounts and books mentioned in paragraph (c) hereof and transmit a copy of the statement to the Territorial Treasurer.
- (ii) the statement required by subparagraph (i) shall set forth the total amount of fees, fines and moneys which have been received by the Clerk during the previous month and with such statement the Clerk shall transmit to the Territorial Treasurer the amount of all fees, fines and moneys received by him during the preceding month.

(f) To do and perform all such other acts and duties as may be necessary for the administration of justice in the Territory or as may be prescribed. R.O. 1958, c. 60, s. 17; 1964 (2nd) c. 8, s. 1; 1968 (2nd) c. 6, s. 1; 1968 (4th) c. 11, s. 1.

18. (1) In the absence of the Clerk a judge may appoint a suitable person to perform the duties prescribed in section 17. R.O. 1958, c. 60, s. 18. Substitute

19. (1) A judge has *ex officio* throughout the Territory all the powers of the Clerk of the Court. R.O. 1958, c. 60, s. 19. Judge has same powers

20. (1) All books, papers, documents and moneys in the possession of a Clerk by virtue of or appertaining to his office shall upon his resignation, removal or death immediately become the property of such person as a judge may appoint pending the appointment of a new Clerk of the Court. R.O. 1958, c. 60, s. 20. Transfer of books, etc., after resignation, removal or death

21. (1) No Clerk while holding office shall practise as a barrister or solicitor of the Territory or be a member of any firm of barristers or solicitors practising in the Territory. R.O. 1958, c. 60, s. 21. Clerks not to practise as barristers or solicitors

PUBLIC ADMINISTRATOR

22. (1) The Commissioner may appoint a fit and proper person to be Public Administrator and Official Guardian under the name of Public Administrator. Appointment of Public Administrator

(2) Before entering upon his duties the Public Administrator shall take an oath of office prescribed by the Commissioner. Oath

(3) The work and operation of the office of Public Administrator and his dealings and accounts in connection with estates and property coming into his hands by virtue of his office is subject to inspection, examination and audit by the Auditor General of Canada. Office subject to inspection by Auditor General of Canada

(4) The Public Administrator shall furnish security to the Commissioner in the penal sum of ten thousand dollars conditioned for the due performance of his duties, and he is not otherwise required to furnish security as an administrator unless a judge so directs, and such security may be furnished by bond or agreement of any guarantee company approved by the Commissioner. R.O. 1958, c. 60, s. 22. Security to be furnished by Public Administrator

Duty to protect assets of deceased persons

23. (1) When any person dies whether testate or intestate and his lands, personal estate and effects have not been taken possession of by his executors or next-of-kin, the Public Administrator shall, when the facts are brought to his notice, forthwith take possession of the said lands, personal estate and effects and safely keep, preserve and protect them and pending the grant of probate to an executor or the grant of letters of administration to an administrator, as the case may be, the Public Administrator has all the powers, rights and duties of an executor or administrator. R.O. 1958, c. 60, s. 23.

Person having care of deceased, etc., to report to Public Administrator or R.C.M.P.

24. (1) Where a person in the charge or care or upon the premises of another person dies, the other person shall forthwith communicate to the Public Administrator or the officer or constable commanding the post of the Royal Canadian Mounted Police nearest the place where the death occurred all of the facts within his knowledge, information or belief pertaining to

- (a) the death,
- (b) the name, age and nationality of the deceased,
- (c) the place of residence and the domicile of the deceased,
- (d) whether or not the deceased left a will and, if so, where the same may be found,
- (e) the names and addresses of the executors, if any, and of the next-of-kin of the deceased, and
- (f) what person or persons are in charge of any real or personal property of the deceased.

Person having property of deceased to report to Public Administrator or R.C.M.P.

(2) Where there is no executor or next-of-kin competent and willing to take charge of the lands, personal estate and effects of a deceased, any person having custody of any moneys, goods, chattels, books, documents, papers or other effects belonging to the estate of the deceased shall forthwith deliver the same to the Public Administrator or the officer or constable mentioned in subsection (1) and advise the Public Administrator or such officer or constable of all facts within his knowledge, information or belief touching the property both real and personal and the liabilities of the deceased.

R.C.M.P. to transmit information and property to Public Administrator

(3) Where an officer or constable is given information under subsection (1), he shall, as soon as possible, transmit the information to the Public Administrator, and where assets of the estate have been delivered to him under subsection (2), he shall also transmit these assets as soon as possible to the Public Administrator and whenever immediate transmission of the assets is practicable, he shall transmit forth-

with a complete inventory with approximate valuation of the assets. R.O. 1958, c. 60, s. 24.

25. (1) In the absence of any application for probate of a will or letters of administration within one month after the death of any person leaving property within the Territory, the Public Administrator shall, when the facts are brought to his notice, enter upon the administration of the estate of the deceased. R.O. 1958, c. 60, s. 25.

Public Administrator to administer estate when no application for probate

26. (1) Where the Public Administrator is the administrator of an estate, he shall without any order for that purpose advertise twice in a newspaper published weekly or semi-weekly describing the estate and requesting anyone who may have a claim against it to file his claim verified by a statutory declaration.

Public Administrator to advertise describing estate, etc.

(2) After the expiration of three months from the time of the second advertisement, the Public Administrator shall proceed to distribute the estate having regard only to the claims of which he then has notice and he is not liable for any assets so distributed to any person of whose claim he has not notice at the time of the distribution.

Distribution of estate among claimants of whom he has notice

(3) Nothing in this section prejudices the right of any creditor or claimant to follow the assets, or any part thereof, into the hands of the person or persons who have received all or part of such assets. R.O. 1958, c. 60, s. 26.

Creditor may follow assets

27. (1) The Public Administrator, upon making a written statement verified on oath and without the institution of a suit,

Application for direction

(a) shall, when any question arises as to

- (i) the priority of claims as between creditors or classes of creditors,
- (ii) the incidence of succession duty,
- (iii) the rights of beneficiaries as between themselves, or
- (iv) the advisability of instituting or defending an action on behalf of the estate, and

(b) may, where any other question arises respecting the administration of the estate of a testator or intestate, apply to a judge in chambers for direction.

(2) Notice of an application under subsection (1) shall be served upon such persons interested in the application as the judge before whom the application is made thinks expedient and if the Public Administrator *bona fide* acts upon the

Notice of application

direction of the judge he is saved harmless from any action arising out of the matter unless he has been guilty of fraud, misrepresentation or wilful concealment in obtaining the direction. R.O. 1958, c. 60, s. 27.

Public Administrator to be guardian where no other appointed

28. (1) When no other appointment has been made the Public Administrator shall be the guardian of the estate within the Territory of all infants who have no parent residing or living in the Territory. R.O. 1958, c. 60, s. 28.

Power of Public Administrator to summon witnesses

29. (1) The Public Administrator may summon before him at such time and place as he may appoint any person who, in his opinion, has knowledge of the estate and effects of any deceased person, and may examine such person upon oath touching his knowledge of the estate and effects. R.O. 1958, c. 60, s. 29.

In passing accounts service of summons may be effected by publication in newspaper

30. (1) Whenever the Public Administrator, with a view to passing his accounts in any estate, has taken out a summons calling upon creditors, next-of-kin and all persons interested in the estate, to attend upon the passing of accounts, he may serve the summons upon all such persons by giving notice thereof at least one month prior to the date fixed for passing the accounts in a newspaper published in the district where the deceased person resided or, if there is no such newspaper, in some other newspaper published in the Territory. R.O. 1958, c. 60, s. 30.

Offence and penalty

31. (1) Any person who neglects to comply with section 24, or who does not appear to a summons, refuses to take an oath, or to be examined on oath in accordance with section 29 is liable upon summary conviction to a fine of not more than five hundred dollars and not less than fifty dollars. R.O. 1958, c. 60, s. 31.

Fees of Public Administrator

32. (1) The Commissioner may prescribe the fees to be charged by the Public Administrator R.O. 1958, c. 60, s. 32; 1969 (3rd) c. 3, s. 1.

JUSTICES OF THE PEACE

Application of provisions of Criminal Code relating to summary convictions or extraordinary remedies

33. (1) Subject to the provisions of any other Ordinance, the provisions of the *Criminal Code* relating to summary convictions or extraordinary remedies apply to all proceedings before justices of the peace under or by virtue of any Ordinance of the Territory or by-laws of a municipality. R.O. 1958, c. 60, s. 34.

34. (1) Subject to the provisions of any other Ordinance, the provisions of the *Criminal Code* apply to appeals from convictions or orders made by a court of summary jurisdiction. R.O. 1958, c. 60, s. 34. Disposition of fines, etc.

SHERIFF

35. (1) There shall be a sheriff. R.O. 1958, c. 60, s. 36. Sheriff

36. (1) If a deputy sheriff is appointed he shall in the absence or during the illness of the Sheriff or whenever authorized so to do by the Sheriff, exercise and perform all the powers and duties of the Sheriff. R.O. 1958, c. 60, s. 36.

37. (1) The Sheriff shall keep his office open on such days of the week, other than holidays, and during such hours as the Commissioner may fix. R.O. 1958, c. 60, s. 37; 1964 (2nd) c. 8, s. 2. Office hours

38. (1) The Sheriff shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him in virtue of his office showing separately the fees received for each service performed and such further facts and information as the Court may from time to time require. R.O. 1958, c. 60, s. 38. Fee book

39. (1) The Sheriff shall, on or before the 15th day of January in each year, make up a statement in duplicate from the book referred to in section 38 and return the same to the Commissioner verified under oath and such statement shall set forth the total amount of fees that have been received during the twelve months ended on the 31st day of December next preceding. R.O. 1958, c. 60, s. 39. Annual statement

40. (1) The Sheriff shall keep in his office open to the inspection of any person a seal of office and the following books, namely: Seal of office and records

- (a) process books in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution received by the sheriff, the Court out of which the same was issued, the date of the receipt, the nature of the process, the names of the parties thereto, the barrister or solicitor by whom issued, the date of the return and the nature of the return made thereto or what was thereunder or therewith done respectively; Process books

- Execution books (b) execution books for goods and lands respectively in which shall be entered a memorandum of every writ of execution or writ in the nature of a writ of execution, the Court out of which the same issued, the names of the parties thereto, the barrister or solicitor by whom issued, the date of return and the nature of the return made thereto or what was done thereunder or therewith; and
- Cash book (c) cash book in which shall be entered all cash received or paid away by the Sheriff in his official capacity or in connection with his office for any service whatever for fees, poundage, service of process and papers, attendance at Court, moneys levied under execution or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in which or on account of which the same was received or paid away. R.O. 1958, c. 60, s. 40.

Property in Sheriff's books, etc.

41. (1) All books, accounts, records, papers, writs, warrants, processes, moneys and other matters and things in the possession or under the control of the Sheriff by virtue of or appertaining to his office as Sheriff shall be the property of Her Majesty and the same shall immediately upon the resignation, removal from office or death of any Sheriff be, by the party in whose possession or control they may come or happen to be, handed over to and taken possession of by the successor in office of such Sheriff or such person as a judge may appoint to receive the same. R.O. 1958, c. 60, s. 41.

No unauthorized holding of books, etc.

42. (1) Unless authorized by this Ordinance no person shall take, have or hold any books, accounts, records, papers, writs, warrants, processes, moneys or other matters or things referred to in section 41, and any person having or holding any of such matter shall forthwith on demand deliver over the same and every one of them to the person entitled thereto; and every person who neglects or refuses so to do commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 60, s. 42.

Sale of lands where Sheriff dies

43. (1) In case of the death, resignation or removal of a sheriff after he has made a sale of lands but before he has made a transfer of the same to the purchaser, such transfer shall be made by the person who is lawfully executing the duties of the Sheriff at the time when the deed of conveyance is made. R.O. 1958, c. 60, s. 43.

Execution against lands after Sheriff goes out of office

44. (1) When the Sheriff goes out of office during the currency of any writ of execution against lands and before

the sale of such lands, such writ shall be executed and the sale and transfer of the lands be made by his successor in office or by the person who is lawfully exercising the duties of the Sheriff. R.O. 1958, c. 60, s. 44.

45. (1) Notwithstanding that the Sheriff has forfeited his office and become liable to be removed therefrom, the liability of the Sheriff remains until a new Sheriff has been appointed and sworn into office. R.O. 1958, c. 60, s. 45.

Liability after forfeiture of office

46. (1) No person shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution. R.O. 1958, c. 60, s. 46.

Person levying cannot be purchaser

47. (1) When a person entrusted with the execution of any writ, warrant, process, mesne or final, wilfully misconducts himself in the execution of the same or wilfully makes any false return to the writ, warrant or process, he is answerable in damages to any party aggrieved by such misconduct or false return. R.O. 1958, c. 60, s. 47.

Damages for wilful misconduct

48. (1) A Sheriff's officer or clerk entrusted with the custody of any writ or process or of any book, paper or document belonging to the Sheriff or his office shall upon demand upon him by the Sheriff restore and return the writ, process, book, paper or document to the custody of the Sheriff; and in case of any neglect or refusal to return or restore the same the party so neglecting or refusing may be required by an order of the Court to return and restore the writ, process, book, paper or document to the Sheriff, and if he disobeys the order, he may be further proceeded against by attachment as in other cases of contumacy to orders or rules of court. R.O. 1958, c. 60, s. 48.

Duty of Sheriff's officer to return papers, etc.

49. (1) When the Sheriff's officer has in his possession custody or control any writ of summons, *fieri facias* or other writ or any bench warrant or process whatsoever and upon demand made by the Sheriff from whom the same was received or his successor in office or by any other party entitled to its possession neglects or refuses to deliver up the same, the Sheriff or the party entitled to its possession may proceed by summons and order before a judge to compel the production thereof; such order may be enforced in the same manner as like orders for the return of writs against Sheriffs and with or without costs or be discharged with costs against the party applying in the discretion of the judge. R.O. 1958, c. 60, s. 49.

Recovery of possession of writs, etc.

Sheriff cannot practise as barrister or solicitor

50. (1) The Sheriff while holding office shall not practise as a barrister or solicitor in the Territory or be a member of any firm of barristers or solicitors practising in the Territory. R.O. 1958, c. 60, s. 50.

Jurisdiction of Small Debt Officials

51. (1) Every person appointed as a Small Debt Official has jurisdiction in the Territory to try and adjudicate upon any claim for a debt, whether payable in money or otherwise, where the amount or balance claimed does not exceed five hundred dollars, but such jurisdiction does not extend to any case in which Her Majesty is a party or in which the title to land is involved.

Defendant must reside in Territory

(2) No Small Debt Official shall try or adjudicate upon any claim unless the defendant or some one of the defendants resides or carries on business in the Territory.

Firm name may be used

(3) In the case of claims by or against co-partners in trade carrying on business under a firm name, it shall be sufficient to commence or defend the action in the firm name. R.O. 1958, c. 60, s. 51; 1960 (3rd) c. 5, s. 2; 1961 (1st) c. 7, s. 1; 1969 (2nd) c. 7, s. 1.

Official must have no interest

52. (1) No Small Debt Official who is or has been interested in any way in the claim for which a summons is issued or a counterclaim made shall take part in the hearing of such claim. R.O. 1958, c. 60, s. 52.

Application and security

53. (1) Any person having a claim may make application in Form A of Schedule I to a Small Debt Official to issue a Notice of Claim and shall forthwith deposit such sum with the Small Debt Official as security for costs as the Small Debt Official considers necessary. R.O. 1958, c. 60, s. 53.

Notice of claim

54. (1) The Small Debt Official shall make out a notice of Claim in Form B of Schedule I and attach thereto a copy of the plaintiff's claim.

Service

(2) The Notice of Claim to which is attached a copy of the plaintiff's claim shall be served on the defendant by the plaintiff or his agent.

Time for filing defence

(3) The Notice of Claim shall state the time that in the opinion of the Small Debt Official is fair and reasonable in which a defendant may enter his Dispute Note.

(4) Service of a Notice of Claim may be made

(a) by any adult literate person other than the plaintiff upon the person to be served, either personally or by

leaving a copy for him at his last or most usual place of abode with some inmate thereof apparently of the age of sixteen years or older; or

(b) by mailing the copy to the person to be served, by double registered mail, to his last-known post office address, in which case service shall be deemed to be affected at the time the copy is delivered by any official of the post office to the person to be served, or to any person receiving the same on his behalf.

(5) The service of a Notice of Claim may be proved

(a) by the oral testimony of the person effecting the same; or

(b) by affidavit of service; or

(c) by an affidavit of service proving the mailing of registered mail and exhibiting the acknowledgment of receipt of the registered letter purporting to be signed by the person to be served, or by any person receiving the same on his behalf. R.O. 1958, c. 60, s. 54; 1969 (2nd) c. 7, s. 2.

55. (1) A defendant may enter a Dispute Note in Form C of Schedule I to a Notice of Claim served upon him or upon his agent. R.O. 1958, c. 60, s. 55. Dispute Note

56. (1) If the defendant does not enter a Dispute Note or does not appear in person before the Small Debt Official on the day set out in the Notice of Claim, the Small Debt Official may, upon proof of service of the Notice of Claim upon the defendant or his agent, enter judgment by default against the defendant if the plaintiff proves his claim to the satisfaction of the Small Debt Official. R.O. 1958, c. 60, s. 56. Default judgment

57. (1) If the defendant files a Dispute Note or appears in person to dispute the claim, the Small Debt Official shall hear the claim forthwith or set a date for hearing the dispute, whichever in his opinion is convenient for the parties, and shall, if he sets a date, notify both plaintiff and defendant of it. R.O. 1958, c. 60, s. 57. Hearing of claims

58. (1) If the defendant fails to appear on the date set for the hearing of a claim, the Small Debt Official may in his discretion enter judgment by default against the defendant. Where defendant fails to appear at hearing

(2) If the plaintiff fails to appear on the date set for the hearing of a claim, the Small Debt Official may in his discretion dismiss the claim and assess costs of the action against the plaintiff. R.O. 1958, c. 60, s. 58. Where plaintiff fails to appear at hearing

Certificate of judgment

59. (1) Where judgment is given in favour of the plaintiff the Small Debt Official shall make out a Certificate of Judgment in Form D of Schedule I. R.O. 1958, c. 60, s. 59.

Payment of judgment

60. (1) Payment of the amount adjudged owing by the defendant may be ordered forthwith or by instalments, in cash or in kind, and in any manner that the Small Debt Official may consider reasonable and just, and the Small Debt Official may examine the defendant on oath as to his means and effects. R.O. 1958, c. 60, s. 60.

Execution

61. When the Small Debt Official deems it necessary to seize any part of the property of the defendant to enforce the judgment he may issue a writ of execution in Form E of Schedule I to any person whom the Small Debt Official considers fit and proper to execute the same, but the goods and chattels used by the defendant in obtaining his livelihood are exempt from seizure to the extent specified in the *Exemptions Ordinance*. R.O. 1958, c. 60, s. 61.

Sale of goods under seizure

62. (1) When a seizure is made under section 61 the Small Debt Official may sell the goods and chattels so seized after such advertising, by posting of notices or otherwise, as he considers necessary, and he shall apply the moneys realized from the sale first in payment of the costs of the action and secondly in payment of the debt owing to the plaintiff, and any moneys remaining shall be returned to the defendant. R.O. 1958, c. 60, s. 62.

Appeals

63. (1) Either the defendant or the plaintiff may appeal to the Court from the judgment of a Small Debt Official by giving notice of appeal to the Small Debt Official and to the other party and by depositing with the Small Debt Official such sum as security for costs as the Small Debt Official may consider necessary.

(2) The Court shall hear an appeal made under subsection (1) on a day convenient to it and to the parties and the decision of the Court is final. R.O. 1958, c. 60, s. 63.

SCHEDULE I

FORM A

SMALL DEBT APPLICATION

Canada,
Yukon Territory,
BETWEEN:

.....Plaintiff
of

— and —

.....Defendant
of

Made this day of 19 ,
before the undersigned, Small Debt Official, in which the
Plaintiff claims that the Defendant is indebted to him in the
sum of \$

(Quote particulars of claim or refer to them as attached)

SWORN before me
at
in the Yukon Territory,
this day of
19

.....
Small Debt Official

.....
(Signature of Plaintiff)

R.O. 1958, c. 60, Sched.

FORM C

SMALL DEBT DISPUTE NOTE

Canada,
Yukon Territory,

BETWEEN:

.....Plaintiff
of

— and —

.....Defendant
of

To the Small Debt Official at.....
Take Notice that I dispute the Plaintiff's claim for the sum
of \$, on the following grounds:

(Give grounds for disputing claim)

.....
Defendant

R.O. 1958, c. 60, Sched.

FORM D

SMALL DEBT CERTIFICATE OF JUDGMENT

Canada,
Yukon Territory,

BETWEEN:

.....Plaintiff
of

— and —

.....Defendant
of

To Whom It May Concern:

Take Notice that in a certain Claim under the provisions of the *Judicature Ordinance*, I have this day given judgment in favour of the plaintiff for the sum of \$ for debt and \$ for costs.

Dated at in the Yukon Territory this
 day of 19 .

.....
Small Debt Official

R.O. 1958, c. 60, Sched.

CHAPTER J-2

JURY ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Jury Ordinance*. Short title
 R.O. 1958, c. 61, s. 1.

INTERPRETATION

2. (1) In this Ordinance Definitions
 "action" means a civil proceeding as defined in the *Judicature "action"*
Ordinance;
 "Clerk" means the Clerk of the Court. R.O. 1958, c. 61, s. 2. "Clerk"

RIGHT TO JURY IN CIVIL MATTERS

3. (1) Where, in any action for libel, slander, false imprisonment, malicious prosecution, seduction or breach of promise of marriage, or in any action founded upon a tort or contract in which the amount claimed exceeds one thousand dollars, or in any action for the recovery of real property, either party to the action applies to the Court, not less than two weeks prior to the time fixed for the trial of the action before a jury, the action shall, subject to subsection (2) and to section 4, be tried before a jury, but in no other case shall an action be tried before a jury. Right to jury

(2) Where, in any action of a class specified in subsection (1), application is made for the trial of that action before a jury and it appears to a judge, either before or after the commencement of the trial, that the trial will involve any prolonged examination of documents or accounts or any scientific investigation that, in the opinion of the judge, cannot conveniently be made by a jury, the judge may direct that the action be tried without a jury or that the jury be dismissed, in which case the action shall be tried or the trial continued, as the case may be without a jury. R.O. 1958, c. 61, s. 3. May dispense with jury

JURY COSTS

4. (1) Where, in accordance with subsection 3(1), application is made for the trial of an action before a jury, the party Security for jury costs

making the application shall deposit with the Clerk security for payment of the cost of the jury.

Payment of costs (2) Upon the conclusion of the sittings at which the action is tried the party making the application shall pay to the Clerk any amount by which the cost of the jury exceeds the amount of the security deposited by him in accordance with subsection (1), and is entitled to have returned to him any amount by which the amount of the security so deposited exceeds the cost of the jury.

Taxation of costs (3) If the party making the application judgment in his favour, he shall, unless the judge otherwise orders, be allowed and may tax against the unsuccessful party to the action the cost of the jury.

Definitions of "cost of jury" (4) In this section. "cost of the jury" means

- (a) the total cost of the jury for the sittings of the Court at which the action is tried, including the cost of summoning the panel, jurors' fees and allowances, and all other lawful expenses in connection therewith, as certified by the Clerk; or
- (b) in any case where a jury is used for the trial of more than one action or proceeding at the same sittings of the Court, a portion of the total cost specified in paragraph (a), the said portion to be determined at the conclusion of the sittings in accordance with the rules of Court, or, if there are no such rules applicable, in accordance with an order to be made by the presiding judge. R.O. 1958, c. 61, s. 4.

PERSONS QUALIFIED TO SERVE AS JURORS

Persons qualified 5. (1) Subject to this Ordinance, every person who

- (a) is twenty-one or more years of age,
- (b) is a Canadian citizen or British subject, and
- (c) is able to speak and understand the English language,

is qualified to serve as a juror in any action or proceeding that may be tried by a jury in the Territory. R.O. 1958, c. 61, s. 5.

Persons not qualified 6. (1) No person is qualified to serve as a juror who

- (a) has been convicted of an offence for which he was sentenced to a term of imprisonment exceeding one year, not having been subsequently granted a free pardon, or
- (b) is afflicted with blindness or deafness, or is a mentally disordered person, idiot or imbecile, or possesses any

other physical or mental infirmity incompatible with the discharge of the duties of a juror. R.O. 1958, c. 61, s. 6.

PERSONS EXEMPT FROM SERVICE

7. (1) The following persons are exempt from the service Persons exempt
as jurors:

- (a) members of the Queen's Privy Council for Canada or of the Senate or House of Commons of Canada;
- (b) the Commissioner and members of the Council of the Yukon Territory;
- (c) members of the Royal Canadian Mounted Police Force;
- (d) judges of any court of record, police magistrates, justices of the peace and coroners;
- (e) practising barristers and solicitors;
- (f) clergymen of any denomination;
- (g) salaried firemen and active members of the fire brigade of a municipality;
- (h) officers of the Court, including Sheriff's officers, constables and bailiffs;
- (i) persons employed in the Department of Corrections of the territory;
- (j) persons employed in the Public Service of the Territory classified as Probation Officers and Social Workers;
- (k) telegraph, telephone and radio operators;
- (l) postmasters;
- (m) officers and men of the regular naval, army or air forces of Her Majesty in right of Canada;
- (n) physicians, surgeons, dental surgeons and druggists in active practice;
- (o) nurses in active practice; and
- (p) persons actually engaged in the operation of
 - (i) railway trains and steamships,
 - (ii) plants producing electricity for public consumption, and
 - (iii) water distribution systems distributing water for public consumption. R.O. 1958, c. 61, s. 7; 1968 (2nd) c. 7, s.1.

8. (1) No person is required to serve as a juror more than once in any two-year period, unless the service of that person as a juror is necessary by reason of there being an insufficient number of persons qualified to serve as jurors within a dis- Persons excused

tance of twenty miles from the place of trial. R.O. 1958, c. 61, s. 8.

COMPILATION OF JURY LIST

Jury list **9.** (1) The Sheriff shall, prior to the first day of November in each year or as nearly as possible thereafter, compile a list in Form A of Schedule I of persons who are qualified to serve as jurors and who are not, to his knowledge, exempt from service, for each place fixed for the sittings of the Court in the following year.

Contents of list (2) The list shall contain, if possible, not less than forty-eight names, and shall give the addresses and occupations of the persons whose names are listed.

Persons not to be entered on list (3) The name of any person whose dwelling is more than twenty miles from the place fixed for the sittings of the Court shall not be entered upon the list, unless the number of persons who live within a distance of twenty miles from the place so fixed and who are qualified to serve as jurors is, in the opinion of the Sheriff, insufficient, having regard to the provisions of subsection (2). R.O. 1958, c. 61, s. 10.

Access to voters lists, etc. **10.** (1) For the purpose of compiling the list referred to in section 9 the Sheriff shall have access to the voters lists, assessment rolls and other public documents under the control of any officer of a municipality situated within, or partly within, a distance of twenty miles from the place fixed for the sittings, and the said officer shall furnish to the Sheriff upon request any available information as to the qualifications and suitability of persons for service as jurors. R.O. 1958, c. 61, s. 11.

Certification of lists **11.** (1) As soon as possible after the first day of November in each year, the Sheriff shall certify the lists prepared by him and shall forward them to the Clerk. R.O. 1958, c. 61, s. 12.

Supplementary lists **12.** (1) If, after the lists previously referred to have been forwarded to the Clerk, a place other than one for which a list has been prepared is fixed for the sittings of the Court, or if for any other reason a judge considers it necessary, the judge may order the Sheriff to prepare, certify and return to him a supplementary list; the order shall state the time within which the return is to be made, and may contain such other directions as to the judge seems necessary.

(2) Upon receipt by the Sheriff of the order referred to in subsection (1) the Sheriff shall proceed according to the tenor thereof. Duty of Sheriff

(3) Each supplementary list shall be substantially in accordance with Form A of Schedule I, and shall be marked "Supplementary List". R.O. 1958, c. 61, s. 13. Form of supplementary list

SELECTION OF JURY PANEL

13. (1) Upon receipt of notice that a jury will be required for a sitting of the Court, the Clerk shall, within a reasonable time before the day fixed for the commencement of the sitting, certify over his hand the number of jurors that, in his opinion, will be required for the sitting and shall forthwith forward the certificate to a judge and apply to him for an appointment to select the panel. Certificate of Clerk

(2) Upon receipt of the application for an appointment the judge shall appoint a time and place for the selection of the panel, and if unable to attend at the time and place appointed he shall appoint some other person to act in his behalf. Appointment to select panel

(3) The Clerk shall notify the Sheriff in writing of the time and place fixed for the selection of the panel, at least twenty-four hours prior to the time so fixed. Notice to Sheriff

(4) Prior to the time fixed for the selection of the panel, the Clerk shall write the name of each person named in the list or supplementary list returned to him by the Sheriff, together with the person's address and occupation, upon a card or piece of paper, each of uniform size, and shall place each card or piece of paper in a separate envelope and seal it, each such envelope being of uniform size and shape and without markings of any kind. Procedure prior to selecting panel

(5) At the time appointed for the selection of the panel the judge or the person appointed to act in his behalf and the Sheriff shall attend at the place appointed, where the Clerk shall cause all the envelopes containing the names of the persons named on the list to be placed in a suitable container and thoroughly mixed in the presence of the judge or his appointee and in the presence of the Sheriff, and the Sheriff shall draw from the container a number of envelopes corresponding to the number of jurors required, as certified by the Clerk; the envelopes so drawn shall be opened by the Sheriff and the names contained therein shall be placed on the panel list. Selection of panel

Second drawing when necessary

(6) If, at the time the panel is selected or at any time thereafter, the Clerk is of the opinion that the number of jurors so selected will not be sufficient, by reason of the selection of names of persons who are exempt from service as jurors or are entitled to be excused therefrom, he shall so certify, and shall further certify to the additional number that, in his opinion is necessary, and shall in accordance with the requirements of this section make a second drawing and add the names contained in the envelopes so drawn to the panel list.

Third drawing

(7) A third drawing or as many as are required may be made in accordance with the provisions of this section.

Performances of duties of Clerk of Sheriff in certain cases

(8) Where the same person performs the duties of Sheriff and Clerk or where the Sheriff or Clerk is not available by reason of illness or other cause, the judge shall appoint a person employed in the office of the Sheriff or Clerk, or, if such person is not available, a magistrate or justice of the peace, to perform the duties of Sheriff or Clerk as the case may be.

Certification by judge

(9) The judge or his appointee shall certify as to his attendance at the selection of the panel and as to the regularity of the proceedings.

Custody of certificates

(10) All certificates required in accordance with this section shall be retained in the custody of the Clerk. R.O. 1958, c. 61, s. 14; 1961 (3rd) c. 1.

Proceedings after selection of panel

14. (1) Upon completion of the panel list, the Clerk shall submit the same to the judge, who may remove from the list the names of any persons who, in his opinion, would suffer undue hardship or serious inconvenience were they to be called upon to serve as jurors, and immediately thereafter shall certify the list as revised by him and return the same to the Clerk, who shall forthwith issue to the Sheriff a precept, in Form B of Schedule I, requiring the Sheriff to summon the persons named on the panel list to attend the Court at the time and place fixed for the commencement of the sittings, and shall deliver the same to the Sheriff at least ten days prior to the time so fixed. R.O. 1958, c. 61, s. 15.

Summoning of jurors

15. (1) Upon receipt of the precept referred to in section 14, the Sheriff shall summon each person named on the panel list by serving upon him or leaving with a responsible member of his household a written summons in Form C of Schedule I.

(2) When serving a summons upon any person the Sheriff shall ascertain or attempt to ascertain whether that person's service as a juror will inflict upon him undue hardship or serious inconvenience, and if in the opinion of the Sheriff such hardship or inconvenience is likely to result he shall report the same to the Clerk.

Hardship

(3) The Sheriff is not guilty of a breach of duty by reason only that he fails to serve with a summons any person whose name appears on the panel list, if his failure to serve that person is due to a cause over which he has no control. R.O. 1958, c. 61, s. 16.

Failure of Sheriff to serve summons

16. (1) The Sheriff shall, on or before the commencement of the sittings of the Court, deliver to the Clerk the precept referred to in section 15, together with a return showing his action thereon and listing the names of persons requesting to be excused from service. R.O. 1958, c. 61, s. 17.

Return by Sheriff

SELECTION OF JURORS FROM THE PANEL

17. (1) The Sheriff shall write the name, address and occupation of each person who has been summoned by him and who is not excused from serving as a juror on a separate card or piece of paper, each of which shall be of uniform size, and shall place the cards in a suitable container and deliver it to the Clerk. R.O. 1958, c. 61, s. 18.

Procedure prior to trial

18. (1) Immediately prior to the commencement of each trial for which a jury is required, the Clerk shall, in open court, cause the container to be shaken and the cards or pieces of paper therein thoroughly mixed, and shall then draw out the cards or pieces of paper one at a time, shaking the container after each drawing, and shall continue to draw out such cards or pieces of paper so long as it is necessary to do so in order to obtain a complete jury.

Selection of individual jurors

(2) The cards selected bearing the names of persons subsequently sworn as jurors shall be kept apart until the verdict is given or the jury is dismissed or discharged and shall then be returned to the container, unless no other action or proceeding remains to be tried by a jury at the sittings of the Court. R.O. 1958, c. 61, s. 19; 1961 (3rd) c. 1, s. 3.

Names selected

CHALLENGE IN CIVIL MATTERS

19. (1) A party to a civil action may, at any time before a person whose name has been selected pursuant to section 19 is sworn, challenge that person for cause.

Challenges for cause

Idem (2) Where a challenge is exercised pursuant to subsection (1), the judge may, in his discretion, allow the challenge or direct that the person so challenged be sworn.

Peremptory challenges (3) Each side prosecuting or defending an action may exercise not more than three peremptory challenges which, when exercised, may not be withdrawn. R.O. 1958, c. 61, s. 20.

SWEARING OF JURORS

Swearing of jurors 20. (1) Where a person whose name is selected pursuant to section 18 is not challenged or is challenged but the challenge is disallowed, as the case may be, the Clerk shall swear that person and when sworn that person shall be a juror for the trial of the action. R.O. 1958, c. 61, s. 21.

GENERAL

Judge may excuse 21. (1) The judge may for a good cause excuse from service as a juror any person who has been summoned but has not been sworn. R.O. 1958, c. 61, s. 22.

Tales de circumstantibus 22. (1) Where at the trial of any action the number of jurors in attendance is less than the number required, or if so reduced for any reason that a full jury cannot be sworn, the judge may, upon application by any party to the action, direct the Sheriff to summon such other qualified persons as are needed and can be found and to add their names to the panel. R.O. 1958, c. 61, s. 23.

Jurors not needed 23. (1) If at any time during the sittings of the Court it appears to the judge that the services of any person as a juror will not be needed, he may order that person to be discharged. R.O. 1958, c. 61, s. 24.

INSPECTION BY JURY

Inspection by jury 24. (1) Where, during the trial of an action before a jury, it appears to the judge that a view by the jury of any place or any real or personal property in question is necessary or desirable in order that the jury may better understand the evidence, the judge may, at any time before a verdict is returned, order such view by the jury, on such terms as to costs as to him seems just, and the order to made shall contain directions to the Sheriff as to the manner in which and the persons by whom the place or property in question shall be shown to the jury, and shall contain any other direction to the Sheriff that the judge sees fit to make. R.O. 1958, c. 61, s. 25.

VERDICT

25. (1) The jury for the trial of an action shall consist of six persons, any five of whom may return a verdict or answer questions submitted to them by the judge. Verdict

(2) Where more than one question is submitted to the jury in any action, it is not necessary for the same five jurors to agree upon each answer. R.O. 1958, c. 61, s. 26. Answer to question

26. (1) Subject to subsection 7(1) of the *Defamation Ordinance*, in the absence of any direction by the judge the jury may return a general or special verdict, but shall return a special verdict if the judge so directs and shall not return a general verdict if the judge directs them not to do so; the judge may direct the jury to answer any questions of fact submitted by him, in which case the jury shall answer any such questions and the answers thereto shall constitute a special verdict. R.O. 1958, c. 61, s. 27. Special verdict

27. (1) Subject to section 19, failure to observe any direction in this Ordinance respecting the qualification, exception or excusal of jurors, the compilation and preparations of lists for the purpose of this Ordinance, the form of such lists or any other requirements with respect thereto, the summoning of jurors or the selection or formation of the panel is not a ground for impeaching the verdict or answers given by a jury in any action. R. O. 1958, c. 61, s. 28. Impeaching verdict

ATTENDANCE OF JURORS

28. (1) If during the trial of an action a member of the jury becomes ill, the judge may, in his discretion, direct that the trial shall proceed without him and the verdict of the remaining five jurors, if unanimous, shall be valid. R. O. 1958, c. 61, s. 29. Illness of juror

29. (1) No jury shall be kept without meat, drink or other reasonable comfort while it is considering its verdict. Necessities of jury

(2) Where, during the trial of an action, the judge directs that the jury shall not be allowed to separate, the sheriff shall provide such food and lodgings as he considers proper, the cost thereof as certified by him to be included as part of the costs of the jury. R. O. 1958, c. 61, s. 30. Food and lodging costs

30. (1) Where a person who is summoned to appear for service as a juror fails to obey the summons or fails to answer to his or her name when called by the Clerk, the judge may Failure to obey summons

impose a fine not less than twenty-five dollars and not exceeding two hundred dollars. R. O. 1958, c. 61, s. 31.

Breach of
secrecy by juror

31. (1) Every person shall, in respect of the trial of any action or proceeding in which he serves or has served as a juror, well and truly keep secret the Queen's counsel, his own and that of his fellow jurors; and any juror who divulges any such secret commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding two months, or to both fine and imprisonment. R. O. 1958, c. 61, s. 32.

REGULATIONS

Jurors' fees and
allowances

32. (1) The Commissioner may make regulations respecting the fees and allowances payable to jurors, and in the absence of such regulations the fees and allowances payable are those specified in the Rules of Court. R. O. 1958, c. 61, s. 33.

SCHEDULE I

FORM A

(Section 9)

FORM OF LIST OF JURORS TO BE COMPILED BY SHERIFFS

In the Territorial Court of the Yukon Territory.

List of persons liable to be returned for service as jurors for the twelve months commencing January 1, 19 , for sittings of the Court at.....

Name in full Residence Occupation

I hereby certify that the foregoing list of persons was selected by me as returnable for jury service at the..... sittings of the Court at..... for the twelve months commencing January 1st, 19

Dated at this day of , A.D. 19

..... Sheriff

R.O. 1958, c. 61, Form A.

FORM B
(Section 14)

PRECEPT TO BE ISSUED TO SHERIFF TO
SUMMON JURY PANEL

In the Territorial Court of
the Yukon Territory.

The Jury Ordinance.

To the Sheriff of.....

You are hereby required to summon the persons named in the annexed list to attend for jury service for sittings of the above Court to be held at in the Yukon Territory, commencing at the hour of ten o'clock in the forenoon ofday, the day of 19....., and on or before such time to return this precept with your actions hereunder endorsed hereon.

Given under my hand and the seal of the said Court at..... in the Yukon Territory this day of 19.....

*Clerk of the Territorial Court
of the Yukon Territory*

Names of Persons on Panel to be Summoned

Name in full	Residence	Occupation
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R.O. 1958, c. 61, Form B.

FORM C
(Section 15)

SUMMONS TO JURORS

Sheriff's Office
(Place and date)

Sir:

You are hereby required to attend Her Majesty's Territorial Court at in the Yukon Territory on day, the day of 19....., at the hour of ten o'clock in the forenoon and following days, for jury service.

If you request to be excused, any application for exemption from service must be made in Court upon oath or affidavit at the above mentioned time and failure to attend at the above mentioned time will render you liable to a fine of two hundred dollars.

.....
Sheriff

To.....

of.....

R.O. 1958, c. 61, Form C.

CHAPTER J-3

JUSTICE OF THE PEACE ORDINANCE

1. This Ordinance may be cited as the *Justice of the Peace Ordinance*. 1971 (1st) c. 8, s. 1. Short title

2. (1) In this Ordinance, Definition
"Justice of the Peace" means a Justice of the Peace appointed or holding office pursuant to section 3, and includes a Justice of the Peace continuing in office pursuant to section 9. 1971 (1st) c. 8, s. 2. "Justice of the Peace"

3. (1) The Commissioner may, from time to time, appoint any person to be a Justice of the Peace in and for the Territory to hold office during pleasure. Appointments

(2) Every judge of the Court and every judge of the Court of Appeal is when he is the Territory *ex officio* a Justice of the Peace in and for the Territory.

(3) Every magistrate and deputy magistrate appointed or continuing in office pursuant to the *Magistrates Court Ordinance*, is when he is in the Territory a Justice of the Peace in and for the Territory.

(4) Every commissioned officer of the Royal Canadian Mounted Police is when he is in the Territory *ex officio* a Justice of the Peace in and for the Territory. 1971 (1st) c. 8, s. 3.

4. (1) Every Justice of the Peace shall upon appointment take and subscribe before a judge, magistrate or notary public, the following oath: Oath

"I....., do solemnly and sincerely promise and swear that I will duly and faithfully and to the best of my skill and knowledge execute the powers and trust reposed in me as a Justice of the Peace in and for the Yukon Territory. So help me God".

(2) The oath of office shall be transmitted forthwith to the Commissioner and filed in his office. 1971 (1st) c. 8, s. 4. Disposition of oath

Remuneration 5. (1) The Commissioner may fix the salary or other remuneration that may be paid to a Justice of the Peace.

Exemption (2) Notwithstanding any other Ordinance, the remuneration mentioned in subsection (1) may be paid to a Justice of the Peace who is employed in the public service in addition to his salary.

Travelling and other expenses (3) The Commissioner may, where special circumstances require it, authorize payment of travelling and other expenses incurred by a Justice of the Peace in the performance of his duties. 1971 (1st) c. 8, s. 5.

6. (1) A Justice of the Peace is not, by reason only of his appointment as such, a member of the public service. 1971 (1st) c. 8, s. 6.

Duty to remit fines and fees 7. (1) Every Justice of the Peace shall, in accordance with the regulations prescribed by the Commissioner, remit all fines and fees received by him to the Territorial Treasurer.

Duty to make returns (2) Every Justice of the Peace shall make returns to the Commissioner concerning such matters, on such forms and at such times as the Commissioner may prescribe.

Duty to keep records (3) Every Justice of the Peace shall keep records concerning such matters and in such form as the Commissioner may prescribe. 1971 (1st) c. 8, s. 7.

Continuing duty 8. (1) Notwithstanding the resignation or revocation of the appointment of a Justice of the Peace, he remains liable to transmit all the fines and fees and make all the returns that he was liable to transmit or make at the time of the resignation or revocation. 1971 (1st) c. 8, s. 8.

Transitory 9. (1) Every person holding an appointment as a Justice of the Peace in and for the Territory under the *Yukon Act* at the coming into force of this Ordinance shall continue as Justice of the Peace and shall be deemed to have been appointed pursuant to this Ordinance. 1971 (1st) c. 8, s. 9.

10. (1) Every proceeding before a Justice of the Peace that was instituted before the coming into force of this Ordinance shall be continued as though the proceeding had been instituted after the coming into force of this Ordinance. 1971 (1st) c. 8, s. 10.

