

YUKON
TERRITORY

REVISED
ORDINANCES
1971

Vol. II

chap. L-1 to W-5

Appendix

REVISED ORDINANCES OF THE YUKON TERRITORY 1971

VOLUME II

Chap. L-1/W-5

Appendix

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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SCHEDULE A (continued)

CHAPTER L-1

LABOUR STANDARDS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Labour Standards Ordinance*. 1968 (2nd) c. 1, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance

Definitions

“Advisory Board” means the Advisory Board established under subsection 47(1); “Advisory Board”

“collective agreement” means an agreement in writing between an employer or an employer’s organization acting on behalf of an employer, on the one hand, and a trade union acting on behalf of the employees in collective bargaining or as a party to an agreement with the employer or employer’s organization, on the other hand, containing terms or conditions of employment of employees including provisions with reference to rates of pay and hours of work; “collective agreement”

“day” means any period of twenty-four consecutive hours; “day”

“employee” means a person employed to do skilled or unskilled manual, clerical, technical, operational or administrative work; “employee”

“employer” means any person who employs one or more employees; “employer”

“general holiday” means New Year’s Day, Good Friday, Victoria Day, Dominion Day, Discovery Day, Labour Day, Thanksgiving Day, Remembrance Day and Christmas Day and includes any day substituted for any such holiday pursuant to section 25; “general holiday”

“industrial establishment” means any work, undertaking or business of a local or private nature in the Territory and includes a branch, section or other division of such work, undertaking or business; “industrial establishment”

“member of a family” in respect of an employer means the employer’s spouse, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half-brother, half-sister, and a person who stands *in loco parentis* to the employ- “member of a family”

	er or to whom the employer stands <i>in loco parentis</i> whether or not there is any degree of consanguinity between that person and the employer, and includes an illegitimate grandchild of the employer and the parents and grandparents of an employer who is an illegitimate child;
"overtime"	"overtime" means hours of work in excess of standard hours of work;
"shop"	"shop" means a place or establishment where wholesale or retail trade is carried on or where services are dispersed to the public for profit;
"standard hours of work"	"standard hours of work" means the hours of work described in subsection 5(1) or 5(2), as the case may be;
"trade union"	"trade union" means any organization of employees formed for purposes that include the regulation of relations between employers and employees;
"wages"	"wages" includes every form of remuneration for work performed but does not include tips and other gratuities;
"week"	"week" means in relation to Part I, the period between midnight on Saturday and midnight on the immediately following Saturday. 1968 (2nd) c. 1, s. 2.

APPLICATION

Application of Ordinance	<p>3. (1) This Ordinance applies</p> <p>(a) to employment in or in connection with the operation of any industrial establishment;</p> <p>(b) to and in respect of employees who are employed in or in connection with the operation of any industrial establishment; and</p> <p>(c) to and in respect of the employers of employees referred to in paragraph (b). 1968 (2nd) c. 1, s. 3.</p>
Saving more favourable benefits	<p>4. (1) This Ordinance applies notwithstanding any other law or any custom, contract or arrangement, whether made before or after the commencement of this Ordinance, but nothing in this Ordinance shall be construed as affecting any rights or benefits of an employee under any law, custom, contract or arrangement that are more favourable to him than his rights or benefits under this Ordinance.</p>
Work on Sunday	<p>(2) Nothing in this Ordinance authorizes the doing of any work on Sunday that is prohibited by law. 1968 (2nd) c. 1, s. 4.</p>

PART I

HOURS OF WORK

5. (1) Subject to this Part, the working hours of an employee shall not exceed eight hours in a day and forty-eight hours in a week. Standard hours of work

(2) The working hours of an employee who is employed in a shop shall not exceed eight hours in a day and forty-four hours in a week. Standard hours of work in a shop

(3) Subject to this Part, no employer shall cause or permit an employee to work in excess of the standard hours of work. Excess hours of work prohibited

- (4) This Part does not apply to Exempt from Part I
- (a) employees who are members of the employer's family ;
 - (b) individuals who search for minerals ;
 - (c) travelling salesmen ;
 - (d) domestic servants ;
 - (e) farm labourers ;
 - (f) individuals whose duties are solely of a supervisory or managerial character ;
 - (g) members or students of such professions as may be designated by the regulations as professions to which this Part does not apply ; and
 - (h) such other persons or classes of persons as may be designated by the regulations as persons or classes of persons to which this Part does not apply.

(5) Where there is a dispute as to whether this Part applies in relation to any person or class of persons the matter shall be determined by the Labour Standards Officer. 1968 (2nd) c. 1, s. 5. Disputes re application

6. (1) An employee may be employed in excess of the standard hours of work but, subject to section 10, the total hours that may be worked by an employee shall not exceed ten hours in any day, sixty hours in any week and two hundred and sixty hours in any month, or such fewer number of hours as may be prescribed by the regulations as maximum working hours in the industrial establishment in respect of which is he employed. Maximum hours of work

(2) Where, in the opinion of the Advisory Board the nature of the work performed in an industrial establishment or in a class thereof is seasonal or intermittent in nature or requires that the maximum hours of work be exceeded, the Commissioner, on the recommendation of the Advisory Board, shall Commissioner may increase maximum hours

order that the maximum hours of work of any person or class thereof employed upon or in connection with that industrial establishment or class thereof shall be increased.

Considerations
of Board

(3) Before a recommendation is made to the Commissioner under subsection (2), the Advisory Board shall consider

- (a) the nature of the industrial establishment or class thereof;
- (b) the conditions of employment therein; and
- (c) the welfare of the employees. 1968 (2nd) c. 1, s. 6; 1969 (2nd) c. 6, s. 1.

Averaging hours
of work

7. (1) Where, in the opinion of the Commissioner after consultation with the Advisory Board, the nature of the work in an industrial establishment necessitates irregular distribution of an employee's hours of work, the standard hours of work in a week may be averaged in respect of a period of two or more weeks, in such manner and in such circumstances as may be prescribed by the regulations. 1968 (2nd) c. 1, s. 7.

Scheduling
hours of work

8. (1) Except as may be otherwise prescribed by the regulations, standard hours of work in a week shall be so scheduled and actually worked that each employee has at least one full day of rest in the week, and, wherever practicable, Sunday shall be the normal day of rest in a week. 1968 (2nd) c. 1, s. 8.

Overtime pay

9. (1) When an employee is required or permitted to work in excess of the standard hours of work, he shall be paid for the overtime at a rate of wages not less than one and one-half times his regular rate.

Overtime
prohibited re
persons
employed in
mines

(2) No employer shall require or permit an employee engaged in mining operations underground in a shaft or tunnel to work or to be at his disposal for work in excess of the standard hours of work. 1968 (2nd) c. 1, s. 9.

Emergency work

10. (1) The maximum hours of work may be exceeded in cases of

- (a) accident to machinery, equipment, plant or persons,
- (b) urgent and essential work to be done to machinery, equipment or plant, or
- (c) other unforeseen or unpreventable circumstances, but only to the extent necessary to prevent serious interference with the ordinary working of the industrial establishment affected.

(2) Where the maximum hours of work have been exceeded under the authority of this section, the employer shall, upon request, report in writing to the Commissioner, stating the nature of the circumstances in which the maximum hours were exceeded, the number of employees who worked in excess of the maximum hours, and the number of additional hours each of them worked. 1968 (2nd) c. 1, s. 10; 1969 (2nd) c. 6, s. 2.

Reporting
additional work

PART II

MINIMUM WAGES

11. (1) Subject to this Part, on and after January 1, 1972, an employer shall pay to each employee seventeen years of age or over, a wage at the rate of not less than one dollar and seventy-five cents an hour or not less than the equivalent of that rate for the time worked by him.

Minimum
hourly wage

(2) Where the wages of an employee are computed and paid on a basis other than time or on a combined basis of time and some other basis, the Commissioner may, by order,

Minimum on
other basis than
time

- (a) fix a standard basis of work to which a minimum wage on a basis other than time may be applied; and
- (b) fix a minimum rate of wage that in his opinion is the equivalent of the minimum rate set forth in subsection (1);

and subject to this Part the employer shall pay to each employee who is paid on a basis other than time a wage at a rate not less than the minimum rate fixed by order under this subsection. 1968 (2nd) c. 1, s. 11; 1970 (1st) c. 4, s. 1; 1971 (3rd) c. 6, s. 1.

12. (1) Where an employer has a contract for the performance of a public work of the Territory, he shall pay his employees who are engaged on or in connection with that public work not less than the prevailing wage rate applicable to the work performed by his employees as that rate is set out in an applicable schedule of wage rates prepared by the Director of Labour Standards, Department of Labour, pursuant to the Fair Wages and Hours of Labour Regulations. 1968 (2nd) c. 1, s. 12.

Public works

13. (1) No employer shall employ a person under seventeen years of age

Employees
under 17 years of
age

- (a) in such occupations as may be prescribed by regulations;

- (b) at a wage less than the minimum wage prescribed by the regulations for the occupation in which such person is employed; or
- (c) contrary to such conditions as may be prescribed. 1968 (2nd) c. 1, s. 13..

Regulations
applicable to
this Part.

14. (1) The Commissioner may make regulations for carrying out the purposes and provisions of this Part and, without restricting the generality of the foregoing, may make regulations

- (a) requiring employers to pay employees, who report for work at the call of the employer, wages for such minimum number of hours as may be prescribed whether or not the employee is called upon to perform any work after so reporting for work;
- (b) fixing the maximum price to be charged for board, whether full or partial, supplied by or on behalf of an employer to an employee, and the maximum deduction to be made therefor from the wages of the employee by the employer;
- (c) fixing the maximum price to be charged for living quarters, either permanent or temporary, supplied by or on behalf of an employer to an employee, whether or not such quarters are self-contained and whether or not the employer retains general possession and custody thereof, and the maximum deduction to be made therefor from the wages of the employee by the employer;
- (d) governing the charges or deductions for supplying uniforms or other articles of wearing apparel that an employer may require an employee to wear or requiring an employer in any specified circumstances to supply, maintain or launder uniforms or other articles of wearing apparel that he requires an employee to wear;
- (e) governing the charges or deductions for supplying any tools or equipment that an employer may require an employee to use and for the maintenance and repair of any such tools or equipment;
- (f) specifying the circumstances and occupations in which persons under seventeen years of age may be employed in any industrial establishment, fixing the conditions of such employment and prescribing the minimum wages for such employment; and
- (g) exempting, upon such terms and conditions and for such periods as are considered advisable, any employer from the application of section 11 in respect of any

class of employees who are being trained on the job, if the training facilities provided and used by the employer are adequate to provide a training program that will increase the skill or proficiency of an employee. 1968 (2nd) c. 1, s. 14.

PART III

ANNUAL VACATIONS

15. (1) In this Part

Definitions

“vacation pay” means four percent of the wages of an employee during a year of employment in respect of which he is entitled to a vacation ;

“vacation pay”

“year of employment” means continuous employment of an employee by one employer for a period of twelve consecutive months beginning with the date the employment began or any subsequent anniversary date thereafter. 1968 (2nd) c. 1, s. 15.

“year of employment”

16. (1) Subject to this Part, every employee is entitled to and shall be granted a vacation with vacation pay of at least two weeks in respect of every completed year of employment.

Annual vacation with pay

(2) For the purposes of this Part, a year of employment includes a year of employment begun before the coming into force of this Part and completed after that date.

Year begun before commencement of this Part

(3) This Part does not apply to employees who are members of the employer’s family. 1968 (2nd) c. 1, s. 16.

Exempt from Part III

17. (1) The employer of an employee who under this Part has become entitled to a vacation with vacation pay

Granting vacation with pay

(a) shall grant to the employee the vacation to which he is entitled, which shall begin not later than ten months immediately following the completion of the year of employment for which the employee became entitled to the vacation ; and

(b) shall, at least one day before the beginning of the vacation or at such earlier time as the regulations prescribe, pay to the employee the vacation pay to which he is entitled in respect of that vacation. 1968 (2nd) c. 1, s. 17.

18. (1) Vacation pay shall for all purposes be deemed to be wages. 1968 (2nd) c. 1, s. 18.

Vacation pay

Agreement
between employ-
er and employee

19. (1) Where, in the opinion of the Labour Standards Officer, there is a shortage of labour, an employer and an employee may enter into a written agreement whereby the employee will not take annual vacation to which he is entitled under section 16 and the employer is not subject to the provisions of section 17 with respect to that employee.

Idem.

(2) Where an agreement referred to in subsection (1) is entered into, the employer shall, within ten months after the date on which the employee became entitled to an annual vacation, pay to the employee in addition to any other amount due to him, his vacation pay for the year immediately preceding the date on which he became entitled to the annual vacation. 1968 (2nd) c. 1, s. 19.

General holiday
during vacation

20. (1) Where a general holiday occurs during the vacation granted to an employee pursuant to this Part, the vacation to which the employee is entitled under this Part shall be extended by one day, and the employer shall pay to the employee, in addition to the vacation pay, the wages to which the employee is entitled for that general holiday. 1968 (2nd) c. 1, s. 20.

Termination of
employment
during year

21. (1) Where the employment of an employee by an employer is terminated before the completion of the employee's year of employment, the employer shall forthwith pay to the employee

- (a) any vacation pay then owing by him to the employee under this Part in respect of any prior completed year of employment; and
- (b) four percent of the wages of the employee during the completed portion of his year of employment.

Employment for
30 days required

(2) Notwithstanding paragraph (1)(b), an employer is not required to pay an employee any amount under that paragraph unless the employee has been continuously employed by him for a period of thirty days or more. 1968 (2nd) c. 1, s. 21.

Transfer of
industrial
establishment

22. (1) Where any industrial establishment in or in connection with which an employee is employed is, by sale, lease, merger or otherwise, transferred from one employer to another employer, the employment of the employee by the two employers before and after the transfer of the industrial establishment shall, for the purposes of this Part, be deemed to be continuous with one employer, notwithstanding the transfer. 1968 (2nd) c. 1, s. 22.

23. (1) The Commissioner may make regulations for carrying out the purposes and provisions of this Part and, without restricting the generality of the foregoing, may make regulations

Regulations in relation to annual vacations

- (a) defining the circumstances and conditions under which the rights of an employee under this Part may be waived or the enjoyment thereof postponed;
- (b) prescribing the notices to be given to employees of the times when vacations may be taken;
- (c) prescribing the time when vacation pay shall be paid;
- (d) defining the absence from employment that shall be deemed not to have interrupted continuity of employment;
- (e) for the calculation and determination of vacation and vacation pay in the case of seasonal or temporary employees or in other suitable cases;
- (f) providing for the granting of vacation or payment of vacation pay in the event of temporary cessation of employment; and
- (g) providing for the application of this Part where, owing to illness or other unavoidable absence, an employee has been absent from his employment. 1968 (2nd) c. 1, s. 23.

PART IV

GENERAL HOLIDAYS

24. (1) Subject to this Part, every employer shall give to each of his employees a holiday with pay in respect of each of the general holidays falling within any period of their employment.

General holidays with pay

(2) Where a general holiday falls on a Sunday, the Monday immediately following shall be a holiday with pay. 1968 (2nd) c. 1, s. 24.

General holiday falling on Sunday

25. (1) Any other holiday may be substituted for a general holiday in any of the circumstances following:

Substituted holidays

- (a) where a class of the employees of an employer is represented by a trade union and the parties to a collective agreement entered into with regard to the terms or conditions of employment of the employees notify the Labour Standards Officer in writing that a specified day has been designated in the collective agreement as a holiday with pay in lieu of a general holiday under this Part, such designated day shall, for

those employees mentioned in the collective agreement, be a general holiday for the purposes of this Ordinance; or

- (b) where no employees of an employer are represented by a trade union or where a class of employees is not provided for under a collective agreement with regard to general holidays, and the employer applies to the Labour Standards Officer to substitute another designated holiday for any general holiday under this Part, the Labour Standards Officer may, if he is satisfied that a majority of the employees or a majority of the class of employees, as the case may be, who are not provided for under a collective agreement in regard to general holidays, concur with the application, approve the substitution of such designated holiday for the specified general holiday, and such designated day shall for those employees be a general holiday for the purposes of this Ordinance. 1968 (2nd) c. 1, s. 25.

Weekly or
monthly pay not
to be reduced for
holiday

26. (1) An employee whose wages are calculated on a weekly or monthly basis shall not have his weekly or monthly wages reduced for a week or month in which a general holiday occurs by reason only of his not working on the general holiday.

Pay at daily or
hourly rate

(2) An employee whose wages are calculated on a daily or hourly basis shall, for a general holiday on which he does not work, be paid at least the equivalent of the wages he would have earned at his regular rate of wages for his normal hours of work.

Pay on other
basis

(3) An employee whose wages are calculated on any basis other than a basis referred to in subsection (1) or (2) shall, for a general holiday on which he does not work, be paid at least the equivalent of his daily wages, based upon the average of his daily wages, exclusive of overtime, or bonus for the week in which such general holiday occurs. 1968 (2nd) c. 1, s. 26.

Additional pay
for holiday work

27. (1) Subject to section 31, an employee who is required to work on a day in respect of which he is entitled under this Part to a holiday with pay shall be paid, in addition to his regular payment made in accordance with section 26, at a rate at least equal to one and one-half times his regular rate of wages for the time worked by him on that day. 1968 (2nd) c. 1, s. 27.

One & one-half
time regular rate
of wages

28. (1) An employee who is not required to work on a general holiday shall not be required to work on another day that would otherwise be a non-working day in the week in

which that holiday occurs, unless he is paid at a rate at least equal to one and one-half times his regular rate of wages for the time worked by him on that day. 1968 (2nd) c. 1, s. 28.

29. (1) Pay granted to an employee in respect of a general holiday on which he does not work shall for all purposes be deemed to be wages. 1968 (2nd) c. 1, s. 29. Holiday pay

30. (1) No employee is entitled to be paid in respect of a general holiday on which he does not work Where holiday pay not required

- (a) where he is not entitled to wages for at least fifteen days during the thirty calendar days immediately preceding the general holiday;
- (b) where the general holiday occurs during the first thirty days of his employment by an employer;
- (c) where he did not report for work on that day after having been called to work on that day;
- (d) where, without the consent of his employer, he has not reported for work on either his last regular working day preceding or his first regular working day following the general holiday; or
- (e) where during the four-week period immediately preceding the week in which the general holiday falls, excluding any period during which he has taken annual vacation pursuant to Part III, he has not worked an average of twenty-four hours per week. 1968 (2nd) c. 1, s. 30.

31. (1) Where a person employed in or in relation to custodial work or essential services as prescribed by regulations is required to work on a day that is a holiday under this Part, he shall be granted a holiday with pay in accordance with section 26 at some other time which may be added to his annual vacation or granted as a holiday with pay at a time convenient to him and his employer. 1968 (2nd) c. 1, s. 31. Custodial work and essential services

32. (1) For the purposes of this Part a person is deemed to be in the employment of another person when he is available at the call of such other person whether or not he is called upon to perform any work therefor. 1968 (2nd) c. 1, s. 32. "Employment" for the purposes of this Part

PART V

ADMINISTRATION AND GENERAL

33. (1) Every employer shall post and keep posted in a conspicuous place on the premises occupied or used by his Employer to post Ordinance

employees a copy of this Ordinance, the regulations and any orders made by the Commissioner. 1968 (2nd) c. 1, s. 33.

Days of Pay

34. (1) Subject to subsection (2) an employer shall, not later than ten days after the expiration of each calendar month, pay to his employee all wages, other than vacation pay, owing to him in respect of such month;

(2) Where the employment of an employee is terminated at any time the employer shall forthwith pay to the employee all wages then owing to him. 1968 (2nd) c. 1, s. 34; 1969 (2nd) c. 6, s. 3.

Labour Stand-
ards Officer

35. (1) The Commissioner shall appoint a Labour Standards Officer to administer this Ordinance.

Powers of
Labour Stand-
ards Officer

(2) The Labour Standards Officer may, for the purposes of enforcing this Ordinance or the regulations,

(a) inspect and examine all books, payrolls and other records of an employer that in any way relate to the wages, hours of work or conditions of employment affecting any employee;

(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 such form as may be required, respecting the wages paid to all or any of his employees, and the hours of work and conditions of their employment; and

(d) require an employee to make full disclosure, production and delivery to him of all records, documents, statements, writings, books, papers, extracts therefrom or copies thereof or of other information either verbal or in writing that the employee has in his possession or under his control and that in any way relate to the wages, hours of work or conditions of his employment.

Right to enter
premises

(3) The Labour Standards Officer may at any reasonable time enter upon any place used in connection with any industrial establishment for the purpose of making an inspection authorized under subsection (2), and may, for such purpose, question any employee apart from his employer.

Certificate of
authorization

(4) The Labour Standards Officer shall be supplied by the Commissioner with a certificate of his authority and on entering any place used in connection with an industrial establishment shall, if so required, produce the certificate to the person in charge thereof.

(5) The person in charge of any industrial establishment and every person employed therein or in connection, therewith shall give the Labour Standards Officer all reasonable assistance in his power to enable the Labour Standards Officer to carry out his duties under this Ordinance and the regulations. 1968 (2nd) c. 1, s. 35.

Duty to assist Labour Standards Officer

36. (1) The Labour Standards Officer may administer all oaths and take and receive all affidavits and statutory declarations required under subsection 35(2) and certify to the administration of the taking thereof. 1968 (2nd) c. 1, s. 36.

Administering oaths

37. (1) Where the Labour Standards Officer finds that an employer has failed to pay an employee

Where under-payments found on inspection

- (a) the minimum wage prescribed under this Ordinance;
- (b) any overtime pay to which the employee is entitled under this Ordinance, or;
- (c) any vacation pay or holiday pay to which the employee is entitled under this Ordinance;

the Labour Standards Officer may determine the difference between the wages actually paid to the employee and the wages to which the employee is entitled, and, if the amount of the difference is agreed to in writing by the employer and the employee, the employer shall, within five days after the date of the agreement, pay that amount to the Commissioner who shall pay it over to the employee forthwith upon the receipt thereof by him.

(2) No prosecution for failure to pay an employee the full wages to which he was entitled under this Ordinance shall, without the written consent of the Commissioner, be instituted against an employer when he has made payment of any amount of difference in wages in accordance with subsection (1). 1968 (2nd) c. 1, s. 37.

Consent required for prosecution

38. (1) The Commissioner may designate any person as an inspector under this Ordinance.

Inspectors

(2) An inspector shall have such powers under this Ordinance and shall perform such functions and duties as the Commissioner may prescribe by regulation. 1968 (2nd) c. 1, s. 38.

Powers, duties and functions of inspectors

INFORMATION AND RETURNS

39. (1) Every employer shall keep such records and supply such information relating to the wages of his employees, their hours of work, and the general holidays, annual vacations

Information and returns

and conditions of work of his employees, and make such returns thereon from time to time, as 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 that effect served personally or sent by registered mail addressed to the latest address of the employer for whom the notice is intended and the employer shall supply the information within such reasonable time as is specified in the notice. 1968 (2nd) c. 1, s. 39.

Pay statement

40. (1) An employer shall, at the time of making any payment of wages to an employee, furnish to the employee a statement in writing setting out

- (a) the period for which the payment of wages is made ;
- (b) the number of hours for which payment is made ;
- (c) the rate of wages ;
- (d) details of the deductions made from the wages ; and
- (e) the actual sum being received by the employee.

Exemption

(2) The Commissioner may, by order, exempt any employer from any or all of the requirements of subsection (1). 1968 (2nd) c. 1, s. 40.

OFFENCES AND PENALTIES

Offences

41. (1) A person who

- (a) contravenes any provision of this Ordinance or the regulations, or any order made thereunder ; or
- (b) discharges or threatens to discharge or otherwise discriminates against a person because that person
 - (i) has testified or is about to testify in any proceeding had or taken under this Ordinance, or
 - (ii) has given any information to the Commissioner, the Labour Standards Officer or an inspector regarding the wages, hours of work, annual vacation or conditions of work of any employee in an industrial establishment,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

(2) Where an offence under this Ordinance committed by a corporation is committed with the consent or connivance of any director, manager, secretary or of any official of the corporation in charge or apparently in charge of a project or where an order made pursuant to subsection 44(1) has been disobeyed by a corporation with the consent or connivance of

any director, manager, secretary or of any official of the corporation in charge or apparently in charge of a project he, as well as the corporation, commits an offence and he is liable on summary conviction to a sentence not exceeding three months or a fine not exceeding one thousand dollars or to both fine and imprisonment.

(3) Where a complaint is laid against a person who is a corporation a summons may be issued requiring an officer, director, secretary or partner named therein to appear in court to answer the charge on behalf of the corporation and to attend in court from day to day until the trial or hearing has been completed.

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

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

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

(7) Where the employer fails to furnish the bond or security under subsection (5) a judge of the Court, upon an application made on behalf of the Labour Standards Officer, may restrain the employer from carrying on any industry or business until the bond or security is furnished and the costs of the application are paid. 1968 (2nd) c. 1, s. 41; 1970 (1st) c. 4, s. 2.

42. (1) A complaint or information under this Ordinance may relate to one or more offences by one employer in respect of one or more of his employees. 1968 (2nd) c. 1, s. 42. Procedure

Time limit **43.** (1) Proceedings in respect of an offence under this Ordinance may be instituted at any time within one year after the time when the subject matter of the proceedings arose. 1968 (2nd) c. 1, s. 43.

Order to pay arrears of wages **44.** (1) Where an employer has been convicted of an offence under this Ordinance in respect of any employee, the convicting court shall, in addition to any other penalty, order the employer to pay to the employee any overtime pay, vacation pay, holiday pay or other wages to which the employee is entitled under this Ordinance the non-payment or insufficient payment of which constituted the offence for which the employer was convicted.

Reinstatement of pay and position (2) Where an employer has been convicted of an offence under this Ordinance in respect of the discharge of an employee, the convicting court may, in addition to any other penalty, order the employer

(a) to pay compensation for loss of employment to the employee not exceeding such sum as in the opinion of the court is equivalent to the wages that would have accrued to the employee up to the date of conviction but for such discharge; and

(b) to reinstate the employee in his employ at such date as in the opinion of the court is just and proper in the circumstances and in the position that the employee would have held but for such discharge.

Refusal to comply with order (3) An employer who refuses or neglects to comply with an order of a convicting court made under this section commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each day during which such refusal or failure continues.

When inaccurate records kept (4) In determining the amount of wages or overtime pay for the purposes of subsection (1), if the convicting court finds that the employer has not kept accurate records as required by this Ordinance or the regulations, the employee affected shall be conclusively presumed to have been employed for the maximum number of hours a week allowed under this Ordinance or the number of hours deposed to by the employee whichever is the less and to be entitled to full wages therefor. 1968 (2nd) c. 1, s. 44.

Identity of complainants **45.** (1) Where a person who makes a complaint to the Commissioner or the Labour Standards Officer requests that his name and identity be withheld, his name and identity shall not be disclosed by the Commissioner, the Labour

Standards Officer or their officials except where disclosure is necessary for the purposes of a prosecution or is considered by the Commissioner or the Labour Standards Officer to be in the public interest. 1968 (2nd) c. 1, s. 45.

46. (1) No civil remedy of an employee against his employer for arrears of wages is suspended or affected by this Ordinance. 1968 (2nd) c. 1, s. 46. Civil remedy

ADVISORY BOARD

47. (1) The Commissioner shall establish an Advisory Board consisting of Advisory Board

- (a) a Chairman;
- (b) one member representative of the interests of employees; and
- (c) one member representative of the interest of employers.

(2) The Advisory Board shall perform the functions and duties given to it and shall advise the Commissioner with respect to any matter that he wishes to refer to it. 1968 (2nd) c. 1, s. 47. Powers and duties of Board

ORDER OF THE COMMISSIONER

48. (1) Where by this Ordinance or the regulations, the Commissioner is authorized to make any order in respect of any matter, the order may be made to apply generally or in particular cases, or to classes of employees or industrial establishments. 1968 (2nd) c. 1, s. 48. Orders

REGULATIONS

49. (1) The Commissioner may make such regulations as he deems necessary for carrying out the provisions of this Ordinance and, without restricting the generality of the foregoing, may make regulations Regulations

- (a) requiring employers to keep records of wages, vacations, holidays and overtime of employees and of other particulars relevant to the purposes of this Ordinance or any part thereof, in such form as may be required;
- (b) governing the production and inspection of records required to be kept by employers;
- (c) for calculating and determining wages received by an employee in respect of his employment, including the monetary value of remuneration other than money

and the regular rate of wages of employees who are not paid solely on a basis of time ;

- (d) prescribing the maximum number of hours that may elapse between the commencement and termination of the working day of any employee ;
- (e) fixing the minimum period that an employer may allow his employee for meals, and the maximum period for which an employer may require or permit an employee to work or be at this disposal without a meal period intervening ;
- (f) providing for the payment of any wages of an employee to the Commissioner or to some other person in the event that the employee cannot be found or in any other case ;
- (g) prescribing custodial work and essential services for the purposes of section 31 ; and
- (h) prescribing the powers, functions and duties of an inspector designated pursuant to subsection 35(1) ; and
- (i) for any other matter or purpose that under this Ordinance is required or permitted to be prescribed by regulation. 1968 (2nd) c. 1, s. 49.

CHAPTER L-2

LANDLORD AND TENANT ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Landlord and Tenant Ordinance*. R.O. 1958, c. 63, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
- “crops” means the products of the soil, and includes all sorts of grain, grass, hay, hops, fruits, vegetables and other products of the soil; “crops”
- “land” includes land of any tenure, and mines and minerals, whether or not held apart from the surface, buildings or parts of buildings, whether the division is horizontal, vertical or made in any other way, also a rent charged upon or payable in respect of any land, and an easement, right, privilege or benefit in, over or derived from land, but not an undivided share in land; “land”
- “landlord” includes every lessor, owner or person giving or permitting the occupation of land and their respective successors in title; “landlord”
- “mines and minerals” includes any strata or seam of minerals or substances in or under any land and powers of working and getting the same, but not an undivided share thereof. R.O. 1958, c. 63, s. 2. “mines and minerals”

PART I

COVENANTS AND CONDITIONS

COVENANTS RUNNING WITH THE LAND AND THE REVERSION

3. (1) Rent reserved by a lease, and the benefit of every covenant or provision therein contained, relating to the leased premises and on the tenant's part to be observed or performed, and every condition of re-entry and other condition therein contained, is annexed and incident to and goes with the reversionary estate in the land, or in any part Rent, etc., annexed to reversionary estate

thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate.

Recovery by person entitled to income

(2) Any rent, covenant or provision is capable of being recovered, received, enforced and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased.

Recovery by person entitled by conveyance

(3) Where a person becomes entitled by conveyance or otherwise, he may recover, receive, enforce or take advantage of the rent, covenant or provision notwithstanding that he becomes so entitled after the condition of re-entry or forfeiture has become enforceable, but this subsection does not render enforceable any condition of re-entry or other condition waived or released before a person becomes so entitled.

Application

(4) This section applies to leases made before or after the 20th day of November, 1954, but does not affect the operation of

(a) any severance of the reversionary estate, or

(b) any acquisition by conveyance or otherwise of the right to receive or enforce any rent, covenant or provision

effected before the 20th day of November, 1954. R.O. 1958, c. 63 s. 3.

Covenants of landlord annexed to reversionary estate

4. (1) The obligation under a condition or of a covenant entered into by a landlord relating to his leased premises shall, if and as far as the landlord had power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is for the time being vested by conveyance, devolution in law or otherwise; and, if and as far as the landlord has power to bind the person from time to time entitled to that reversionary estate, the obligation may be taken advantage of and enforced against any person so entitled.

Application

(2) This section applies to leases made before or after the 20th day of November 1954, whether the severance of the reversionary estate was effected before or after such date.

(3) This section takes effect without prejudice to any liability affecting a covenantor or his estate. R.O. 1958, c. 63, s. 4.

APPORTIONMENT OF CONDITION OF RE-ENTRY

5. (1) Notwithstanding the severance by conveyance, surrender or otherwise, of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry, and every other condition contained in the lease, shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in any land which has not been surrendered or as to which the term has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease. R.O. 1958, c. 63, s. 5.

Condition of re-entry where land severed

MERGER, ETC., OF REVERSIONS

6. (1) Where a reversion expectant on a lease of land is surrendered or merged the estate or interest which, as against the tenant for the time being, confers the next vested right to the land shall be deemed the reversion for the purpose of preserving the same incidents and obligations as would have affected the original reversion if there had been no surrender or merger thereof. R.O. 1958, c. 63, s. 6.

Merger of reversions

WASTE BY TENANTS

7. (1) Subject to the express terms of any lease, or of any valid and subsisting covenant, agreement or stipulation affecting the tenancy,

Waste

(a) every tenant for years and every tenant for life is liable to his landlord and to every other person for the time being having a reversionary interest in the leased premises for voluntary waste and for permissive waste in respect of the premises to the extent by which the interest of the landlord and other persons, if any, having a reversionary interest in the premises is detrimentally affected thereby; and

Tenant for years and tenant for life

(b) every tenant at will is liable to his landlord and every other person having a reversionary interest in the leased premises for voluntary waste in respect of the premises to the extent by which the interest of the landlord and other persons, if any, having a reversionary interest in the premises is detrimentally affected thereby.

Tenant at will

Remedies

(2) Every landlord and every person having a reversionary interest in any leased premises may in respect of any waste by a tenant in respect of the premises in an action brought in any court obtain damages or an injunction, or both. R.O. 1958, c. 63, s. 7.

DEFECTS IN LEASE MADE UNDER POWERS OF LEASING

Defective lease to take effect as contract for grant of lease

8. (1) Where in the intended exercise of any power of leasing whether conferred by a statute, Ordinance or by any other instrument, a lease is granted, which by reason of any failure to comply with the terms of the power is invalid, the lease, if it was made in good faith and the lessee has entered thereunder, shall

- (a) as against the person entitled after the determination of the interest of the grantor to the reversion, or
- (b) as against any other person, who, subject to any lease properly granted under the power, would have been entitled to the land comprised in the lease,

take effect as a contract for the grant, at the request of the lessee, of a valid lease under the power, of like effect as the invalid lease, subject to such variations as may be necessary in order to comply with the terms of the powers; but a lessee under an invalid lease is not, by virtue of any such implied contract, entitled to obtain a variation of the lease if the other persons who would have been bound by the contract are willing and able to confirm the lease without variation.

Continuance of grantor's interest

(2) Where a lease granted in the intended exercise of a power of leasing conferred by a statute, Ordinance or other instrument is invalid by reason of the grantor not having power to grant the lease at the date thereof, but the grantor's interest in the land comprised therein continues after the time when he might, in the exercise of the power, have properly granted a lease in the like terms, the lease takes effect as a valid lease in like manner as if it had been granted at that date.

Confirmation during possession

(3) Where during the continuance of the possession taken under an invalid lease the person for the time being entitled, subject to such possession, to the land comprised therein or to the rents and profits thereof, is able to confirm the lease without variation, the lessee, or other person who would have been bound by the lease had it been valid, is, at the request of the person so able to confirm the lease, bound to accept a confirmation thereof, and thereupon the lease has effect and is deemed to have had effect as a valid lease from the grant thereof.

(4) Confirmation under subsection (3) may be by a memorandum in writing signed by or on behalf of the persons respectively confirming and accepting the confirmation of the lease.

Memorandum

(5) Where a receipt or a memorandum in writing confirming the invalid lease is, upon or before the acceptance of rent thereunder, signed by or on behalf of the person accepting the rent, that acceptance is, as against that person, deemed to be a confirmation of the lease.

Effect of receipt for rent

(6) This section does not affect prejudicially

Remedies preserved

- (a) any right of action or other right or remedy to which, but for this section, the lessee named in an invalid lease would or might have been entitled under any covenant on the part of the grantor for title or quiet enjoyment contained therein or implied thereby ; or
- (b) any right of re-entry or other right or remedy to which, but for this section, the grantor or other person for the time being entitled to the reversion expectant on the termination of the lease, would or might have been entitled by reason of any breach of the covenants, conditions or provisions contained in the lease and binding on the lessee.

(7) Where a valid power of leasing is vested in or may be exercised by a person who grants a lease that, by reason of the determination of the interest of the grantor or otherwise cannot have effect and continuance according to the terms thereof independently of the power, the lease shall for the purposes of this section be deemed to have granted in the intended exercise of the power although the power is not referred to in the lease.

Power of leasing to be deemed

(8) This section takes effect without prejudice to the provision of this Ordinance for the grant of leases in the name and on behalf of the estate owner of the land affected. R.O. 1958, c. 63, s. 8.

Leases in name of estate owner not prejudiced

IMPLIED POWERS OF LESSOR

9. (1) In every lease, unless a different intention appears therein, there shall be implied powers in the lessor

Implied powers of lessor

- (a) that, by himself or his agents, he may enter upon the demised land and view the state of repair thereof, and may serve upon the lessee, or leave at his last or usual place of abode, or upon the demised land, a notice in writing of any defect, requiring him within a reason-

Entry and view

able time, to be therein mentioned, to repair the same, insofar as the tenant is bound so to do; and

- (b) that in case the rent or any part thereof is in arrears for the space of two calendar months, or in case default is made in the fulfilment of any covenant in such lease on the part of the lessee, whether express or implied, and is continued for the space of two calendar months, or in case the repairs required by such notice as aforesaid are not completed within the time therein specified, the lessor may enter upon and take possession of the demised land. R.O. 1958, c. 63, s. 9.

Re-entry on
bawdy house
conviction

10. (1) In every lease whenever made there is implied an agreement that if the tenant or any other person is convicted of keeping a common bawdy house, within the meaning of the *Criminal Code*, on the demised premises, or any part thereof, the landlord may at any time thereafter, into the demised premises, or any part thereof, re-enter and the same have again, re-possess and enjoy as of his former estate. R.O. 1958, c. 63, s. 10.

LICENCES TO TENANTS

Effect of licence

11. (1) Where a licence is granted to a tenant to do any act, the licence, unless otherwise expressed, extends only

- (a) to the permission actually given,
- (b) to the specific breach of any provision or covenant referred to, or
- (c) to any other matter specifically authorized to be done, and the licence does not prevent any proceeding for any subsequent breach unless otherwise specified in the licence.

Remedies
preserved

- (2) Notwithstanding any licence,
 - (a) all rights under covenants and powers of re-entry contained in the lease remain in full force and are available as against any subsequent breach of covenant, condition or other matter not specifically authorized or waived, in the same manner as if no licence had been granted; and
 - (b) the condition or right of entry remains in force in all respects as if the licence had not been granted, save in respect of the particular matter authorized to be done.

Re-entry where
co-lessees

(3) Where in any lease there is power or condition of re-entry on the tenant assigning, subletting or doing any other specified act without a licence, and a licence is granted

- (a) to any one of two or more tenants to do any act, or to deal with his equitable share or interest, or
- (b) to any tenant, or to any one of two or more tenants to assign or underlet part only of the property, or to do any act in respect of part only of the property,

the licence does not operate to extinguish the right of entry in case of any breach of covenant or condition by the co-lessees of the other shares or interests in the property, or by the tenant or tenants of the rest of the property, as the case may be, in respect of such shares or interest or remaining property, but the right of entry remains in force in respect of the shares, interests or property not subject to the licence.

(4) Subsection (3) does not authorize the grant after the 20th day of November, 1954, of a licence to create an undivided share in a legal estate. R.O. 1958, c. 63, s. 11.

Cannot create undivided share in legal estate

LICENCES TO ASSIGN, SUBLET, ETC.

12. (1) In every lease containing a covenant, condition or agreement against assigning, subletting or parting with the possession, or disposing of the land leased without licence or consent, such covenant, condition or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject

Licence to sublet, etc

- (a) to a proviso to the effect that such licence or consent shall not be unreasonably withheld; and
- (b) to a proviso to the effect that no fine or sum of money in the nature of a fine shall be payable for or in respect of such licence or consent, but this proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to such licence or consent.

(2) Where the landlord refuses or neglects to give a licence or consent to assign or sublet, a judge, upon the application of the tenant or assignee or subtenant, may make an order determining whether or not such licence or consent is unreasonably withheld, and where it is so withheld, permitting the assignment or sublease to be made, and such order shall be the equivalent of the licence or consent of the landlord within the meaning of any covenant or condition requiring the same, and such assignment or sublease shall not be a breach thereof. R.O. 1958, c. 63, s. 12.

Court may order licence

NOTICE OF PROCEEDINGS

13. (1) A tenant to whom there is delivered any process of any court for the recovery of premises demised to or held by

Tenant to notify landlord of process for recovery of premises

him, or to whose knowledge any such process comes, shall forthwith give notice thereof to his landlord or his agent, and if he fails so to do, he shall be answerable for all damages sustained by the landlord by reason of the failure to give the notice. R.O. 1958, c. 63, s. 13.

Landlord to notify all claimants in action for re-entry or forfeiture

14. (1) Where a landlord is proceeding by action to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease, every person claiming any right, title or interest in the demised premises under the lease, if it be known to the landlord that he claims such right or interest or if the instrument under which he claims is registered in the Land Titles Office shall be made a party to the action. R.O. 1958, c. 63, s. 14.

Effect of waiver

15. (1) Where the actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any particular instance, such waiver shall not, unless a contrary intention appears, be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver specially relates, nor operate as a general waiver of the benefit of any such covenant or condition. R.O. 1958, c. 63, s. 15.

IMPLIED COVENANTS

Covenants to pay taxes

16. (1) In every lease, unless a contrary intention appears therein, there shall be implied covenants by the lessee

- (a) that he will pay the rent thereby reserved at the times therein mentioned, and all rates and taxes which may be payable in respect of the demised land during the continuance of the lease;
- (b) that he will, at all times during the continuance of the lease, keep and, at the termination thereof, yield up the demised land in good and tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty and reasonable wear and tear excepted. R.O. 1958, c. 63, s. 16.

NOTICE TO TERMINATE TENANCIES

Periods of notice

17. (1) Subject to any express agreement to the contrary, sufficient notice to quit shall be deemed to have been given where there is given,

- (a) in the case of a weekly tenancy, a week's notice ending with the week;

- (b) in the case of a monthly tenancy, a month's notice ending with the month; and
- (c) in the case of a tenancy from year to year, three months' notice ending, in the case of a tenancy originally from year to year, with an anniversary of the last day of the first year thereof, and in the case of all other tenancies from year to year, with an anniversary of the last day of the original tenancy.

(2) Where a tenant, upon the determination of his lease, whether created by writing or by parol, remains in possession with the consent, express or implied, of the landlord, he is deemed to be holding subject to the terms of the lease, so far as they are applicable.

Overholding tenant where express tenure.

(3) Where the tenancy created by the lease was neither a weekly nor monthly tenancy nor a tenancy from year to year, the overholding tenant is deemed to be holding as a tenant from year to year. R.O. 1958, c. 63, s. 17.

Overholding tenant where no express tenure

18. (1) Where any rent is payable or reserved by virtue of any deed, transfer or other assurance, or by will, and there exists no express right of distress for the recovery thereof, the person entitled to receive the rent has the same right of distress for the recovery thereof as if the same were rent reserved upon lease. R.O. 1958, c. 63, s. 18.

Right of distress for rent deemed

DISTRESS FOR RENT

19. (1) Upon the determination of any lease the person entitled as landlord to receive any rent made payable thereby may at any time

- (a) within six months next after the determination of the lease,
- (b) within such six months during the continuance of the landlord's interest, and
- (c) within such six months during the possession of the tenant from whom the rent became due,

distrain for any rent due and in arrears in the same manner as he might have done if the lease were not determined. R.O. 1958, c. 63, s. 19.

20. (1) A person entitled to any rent or land for the life of another may recover by action or distress the rent due and owing at the time of the death of the person for whose life such rent or land depended as he might have done if the person by whose death the estate in such rent or land determined had continued in life. R.O. 1958, c. 63, s. 20.

Where rent for the life of another

Goods shall not exceed rent and costs

21. (1) No person shall take under distress more goods than are reasonably sufficient to satisfy the rent in arrear and the costs of the distress.

Restoration of chattels

(2) Where chattels are distrained for rent due, the person making the distress is not liable to any action for excessive distress, if within seven days after the making of the distress he abandons the excess and thereafter holds under the distress no more chattels than are reasonably necessary to satisfy the rent due with the costs of the distress. R.O. 1958, c. 63, s. 21.

Time

22. (1) No distress for rent shall be made at any time in the interval between five o'clock in the afternoon and eight o'clock in the following morning. R.O. 1958, c. 63, s. 22.

PROPERTY LIABLE TO DISTRESS

Goods not on premises

23. (1) Subject to this Ordinance, goods or chattels that are not at the time of the distress upon the premises in respect of which the rent distrained for is due shall not be distrained for rent. R.O. 1958, c. 63, s. 23.

Exemptions

24. (1) The following goods and chattels are not liable to seizure by a distress by a landlord for rent, namely:

- (a) the beds, bedding and bedsteads, including perambulators or cradles, in ordinary use by the debtor and his family;
- (b) the necessary and ordinary wearing apparel of the debtor and his family;
- (c) one cooking stove with pipes and furnishings, one other heating stove with pipes, two towels, one wash-basin, one kitchen table, one tea kettle, one teapot, one saucepan, one frying pan and for each member of the family the following, namely: one chair, one cup and saucer, one plate, one knife, one fork and one spoon;
- (d) all necessary fuel, meat, fish, flour and vegetables for the ordinary consumption of the debtor and his family for thirty days;
- (e) the tools, agricultural implements and necessaries used by the debtor in the practice of his trade, profession or occupation to the value of six hundred dollars; and
- (f) one axe and one saw. R.O. 1958, c. 63, s. 24.

Horses, cattle, etc.

25. (1) The landlord may take under a distress for rent any horses, cattle, sheep, swine, poultry, fowl, livestock and other domestic animals which are grazing, pasturing or feed-

ing upon any highway or road allowance or upon any way belonging or appertaining to the premises in respect of which the rent distrained for is payable. R.O. 1958. c. 63, s. 25.

26. (1) Where a tenant of land under any kind of tenancy under which rent is payable, fraudulently or clandestinely removes or causes to be removed from the land so held by him at a time when there are any arrears of rent payable in respect thereof that are recoverable by distress any goods or chattels liable to such distress with intent to prevent the landlord from distraining the same for arrears of rent so payable, the landlord or any person by him duly authorized may, within thirty days next after such removal, take and seize as a distress for such arrears any goods and chattels so removed, wherever the same are found, except any such goods and chattels which have been sold or mortgaged for valuable consideration before the seizure to a person not having notice of the fraudulent or clandestine removal, and may sell or otherwise dispose of the goods and chattels so taken in such manner as if the same had actually been distrained by the landlord for arrears of rent upon the premises from which the same had been so removed. R.O. 1958, c. 63, s. 26.

Goods fraudu-
lently removed

27. (1) Every person lawfully charged with the duty of executing a warrant of distress for rent who has reason to believe that any goods or chattels have been fraudulently or clandestinely removed for the purpose of preventing the landlord from distraining the same, and that the said goods are in any building, yard, enclosure or place in such circumstances as to prevent them from being taken or seized as a distress for arrears of rent, may at any time between eight o'clock in the morning and five o'clock in the afternoon enter into and upon the building, yard, enclosure or place and every part thereof for the purpose of searching for any goods and chattels so removed and seize any such goods and chattels there found for arrears of rent as he might have done if they were in an open field or place upon the premises from which they were removed, and for that purpose may obtain entry upon and access to the premises by breaking or removing any doors or any locks or other fastenings whereby such entry and access is hindered.

Execution of
warrant

(2) Where a person encounters any resistance in doing any of the acts and things that he is authorized to do by subsection (1), he may call upon any peace officer to assist him in overcoming that resistance, and such person in the presence of a peace officer and the peace officer may use such force as

Resistance

is reasonably necessary for the purpose of overcoming that resistance. R.O. 1958, c. 63, s. 27.

Double value
where goods
fraudulently
removed

28. (1) Every tenant who fraudulently or clandestinely removes any goods and chattels for the purpose of preventing the landlord from distraining the same for arrears of rent, and every person who wilfully and knowingly aids or assists him in so doing or in concealing any goods or chattels so removed, is liable to the landlord for double value of the said goods, which amount is recoverable by action in any court. R.O. 1958, c. 63, s. 28.

Property subject
to distress

29. (1) No goods and chattels may be taken under a distress for rent excepting the goods and chattels of the tenant and

- (a) goods and chattels that are claimed by a person other than the tenant
 - (i) by virtue of any execution against the tenant,
 - (ii) by virtue of any purchase, gift, transfer or assignment from the tenant whether absolute or in trust or by way of mortgage or otherwise, and
 - (iii) being the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant or by any other relative of the tenant who lives upon the premises in respect of which the rent distrained for is payable as a member of the household of the tenant ;
- (b) the interest of the tenant in any goods and chattels under a contract for the purchase thereof or under a contract whereby the tenant may become the owner thereof upon the performance of any condition ; and
- (c) goods and chattels that have been exchanged between the tenant and another person, or that have been borrowed by the one from the other, for the purpose of defeating the claim of or the right of distress by the landlord. R.O. 1958, c. 63, s. 29.

IMPOUNDING, APPRAISEMENT AND SALE

Impounding

30. (1) Any goods or chattels taken in distress for rent may be impounded or otherwise secured either upon the premises chargeable with the rent or some part thereof, or in some other suitable and convenient place situate within ten miles of the premises chargeable with the rent and the same may be appraised, sold and disposed of upon the premises in which they are so impounded or secured.

Buyer's right of
access

(2) Any person may come and go, to and from the place at which any distress for rent is so impounded and secured, to

view, appraise and buy and to carry off or remove the same on account of the purchaser thereof. R.O. 1958, c. 63, s. 30.

31. (1) Where any goods or chattels are distrained for rent and the tenant does not replevy the same within five days next after notice in writing of the distress, setting out the cause of the taking, has been posted upon a conspicuous place on the premises in respect of which the rent is payable and, where the distress is impounded elsewhere, at the place of impoundment, then after the expiration of the said five days, the person distraining shall cause the goods and chattels so distrained to be appraised by two appraisers. Appraisal

(2) Before making any appraisal the appraisers shall each be sworn to appraise the goods taken in distress truly, according to the best of their understanding, and a memorandum of the said oath shall be endorsed on the inventory. R.O. 1958, c. 63, s. 31. Oath of appraiser

32. (1) After the appraisal has been made the person distraining may sell the goods and chattels distrained for the best price that can be got for the same towards satisfaction of the rent for which the same were distrained and of the costs of such distress, appraisal and sale, and shall hold the overplus, if any, for use of the person lawfully entitled thereto and pay the same over to him on demand. R.O. 1958, c. 63, s. 32. Sale

SET-OFF AGAINST RENT

33. (1) A tenant may set-off against rent a debt due to him by the landlord, in which case he shall give notice in writing of the claim of set-off in Form A, in Schedule I, which notice may be given before or after seizure. Debt due to tenant by landlord

(2) Upon the giving of a notice under subsection (1) the landlord may distrain or proceed with the distress, as the case may be, for the balance of the rent due after deducting the amount of the debt mentioned in the notice that is due and owing by the landlord to the tenant. Distress of balance

(3) The notice mentioned in subsection (1) may be served either personally upon the landlord or upon any other person authorized to receive rent on his behalf or by leaving it with a grown-up person in and apparently residing on the premises occupied by the landlord. Service of notice

(4) No notice given under this section is rendered invalid for any want of form. R.O. 1958, c. 63, s. 33.

DISTRAINABLE GOODS TAKEN IN EXECUTION

Where arrears less than one year's

34. (1) Goods or chattels lying or being in or upon any land or premises leased for life or lives, or term of years, at will, or otherwise are not liable to be taken by virtue of any execution on any pretence whatsoever, unless the party at whose suit the execution is sued out before the removal of such goods or chattels from the land or premises by virtue of such execution pays to the landlord or his bailiff all money due for rent of the land or premises at the time of the taking of such goods or chattels by virtue of such execution if the arrears of rent do not amount to more than one year's rent.

Where arrears exceed one year's rent

(2) Where arrears of rent exceed one year's rent the party at whose suit such execution is sued out, on paying the landlord or his bailiff one year's rent, may proceed to execute his judgment.

Payment to execution creditor

(3) The sheriff or other officer shall levy and pay to the execution creditor as well the money paid for rent under subsection (2) as the execution money. R.O. 1958, c. 63, s. 24.

Effect

35. (1) Where a distress is made for any kind of rent due, and any irregularity is afterwards done by the person distraining, or by his agent, or if there has been an omission to make the appraisal under oath, the distress itself is not on that account deemed to be unlawful, nor is the person making it on that account deemed a trespasser *ab initio*, but the person aggrieved by such irregularity may recover by action full satisfaction for the special damage sustained thereby. R.O. 1958, c. 63, s. 35.

Liability of distrainer

36. (1) Subject to section 21, a distrainer who makes an excessive distress, or makes a distress wrongfully, is liable in damages to the owner of the goods or chattels distrained.

Recovery of damages

(2) Where a distress and sale are made for rent pretended to be in arrears and due when, in truth, no rent is in arrears or due to the person distraining, or to the person in whose name or right such distress is made, the owner of the goods or chattels distrained and sold, his executors or administrators may, by action to be brought against the person so distraining, recover full satisfaction for the damage sustained by the distress and sale. R.O. 1958, c. 63, s. 36.

RIGHTS OF LANDLORD ON TENANT'S BANKRUPTCY

Priority of claim for rent

37. (1) Where an assignment for the general benefit of creditors, or where an order for the winding-up of an incorporated company, or where a receiving order in bankruptcy

or authorized assignment is made against or by a tenant the right of the landlord to distrain or realize his rent by distress ceases from and after the date of the assignment or order and the assignee, trustee or liquidator may take immediate possession of the property of the tenant; but in the distribution of the property of the tenant the assignee, trustee or liquidator shall pay to the landlord, in priority to all other debts, an amount not exceeding the value of the distrainable assets and restricted to the arrears of rent due during the period of three months next preceding and the costs of distress, if any, and the rent for the three months following the date of the assignment or order, and from thence so long as the assignee, trustee or liquidator retains possession of the premises, but any payment to be made to the landlord in respect of accelerated rent shall be credited against the amount payable by the assignee, trustee or liquidator for the period of his occupation.

(2) Notwithstanding any provision, stipulation or agreement in any lease or agreement or the legal effect thereof, where an assignment for the general benefit of creditors, or where an order for the winding-up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made against or by a tenant, the assignee, trustee or liquidator may at any time within three months after the date of the assignment or order for the purposes of the trust estate and before he has given notice of intention to surrender possession or disclaim, by notice in writing elect to retain the leased premises for the whole or any portion of the unexpired term and any renewal thereof, upon the terms of the lease and subject to the payment of the rent as provided by such lease or agreement, and he may upon payment to the landlord of all arrears of rent, assign the lease with rights of renewal, if any, to any person who will covenant to observe and perform its terms and agree to conduct upon the demised premises a trade or business that is not reasonably of a more objectionable or hazardous nature than that which was thereon conducted by the debtor, and who shall on application of the assignee, trustee or liquidator be approved by a judge as a person fit and proper to be put in possession of the leased premises. R.O. 1958, c. 63, s. 37.

Powers of assignee, trustee or liquidator

38. (1) The assignee, trustee or liquidator shall have the right at any time before electing by notice in writing to the landlord under section 37 to surrender possession or disclaim any such lease, and his entry into possession of the leased premises and their occupation by him, while required for the purpose of the trust estate, shall be deemed not to be evi-

Notice to surrender possession

dence of an intention on his part to elect to retain possession pursuant to this section.

Under-lease (2) Where the assignor or person against whom a receiving order in bankruptcy or a winding-up order has been made, being a lessee, has, before the making of the assignment or order demised by way of under-lease, approved or consented to in writing by the landlord, any premises and the assignee, trustee or liquidator surrenders, disclaims or elects to assign the lease the under-lessee shall, if he so elects in writing within three months of the assignment or order stand in the same position with the landlord as though he were a direct lessee from the landlord but subject, except as to rental payable, to the same liabilities and obligations as the assignor, bankrupt or insolvent was subject to under the lease at the date of the assignment or order, but the under-lessee shall in such event covenant to pay to the landlord a rental not less than that payable by the under-lessee to the debtor, and if such last mentioned rental was greater than that payable by the debtor to the landlord the under-lessee shall covenant to pay to the landlord the like greater rental.

Dispute (3) Any dispute arising under this section shall be disposed of upon summary application by a judge. R.O. 1958, c. 63, s. 38.

ATTORNMENT

To stranger **39.** (1) An attornment of a tenant of any land to a stranger claiming title to the estate of his landlord is void, and the possession of his landlord is deemed not to be changed, altered or affected by the attornment, but nothing in this section vacates or affects an attornment made

- (a) pursuant to and in consequence of a judgment or order of a judge; or
- (b) with the privity and consent of the landlord.

Rights of vendor, etc. (2) Nothing in this section shall alter, prejudice or affect any rights that vendor, mortgagee or incumbrance on the 20th day of November, 1954, has under any law or Ordinance. R.O. 1958, c. 63, s. 39.

Grants **40.** (1) A grant or conveyance of any rent or of the reversion or remainder of any land is good and effectual without any attornment of the tenant of the land out of which such rent issues, or of the particular tenant upon whose particular estate any such reversion or remainder is expectant or depending.

(2) A tenant is not prejudiced or damaged by the payment of rent to any grantor or by breach of any condition for non-payment of rent before notice to him of such grant by the grantee. R.O. 1958, c. 63, s. 40.

Notice of grant

RENEWAL OF LEASES

41. (1) Where a lease is duly surrendered in order to be renewed, and a new lease is made and executed by the chief landlord, the new lease is, without a surrender of all or any of the under-leases, as good and valid as if all the under-leases derived thereout had been likewise surrendered at or before the time of taking of the new lease.

No surrender of under-leases

(2) A person in whom any estate for life or lives, or for years, is from time to time vested by virtue of a new lease, is entitled to the rents, covenants and duties, and has like remedy for recovery thereof, and the under-lessees shall hold and enjoy the land in the respective under-leases comprised as if the original lease had been kept on foot and continued, and the chief landlord has and is entitled to the same remedy by distress or entry in and upon the land comprised in any under-lease for the rents and duties reserved by the new lease, so far as the same do not exceed the rents and duties reserved in the lease out of which such sub-lease was derived, as he would have had if the respective under-leases had been renewed under the new principal lease. R.O. 1958, c. 63, s. 41.

Rights of under-lessees and chief landlord

42. (1) Where a person who, in pursuance of any covenant or agreement in writing, if within the Territory and amenable to legal process, might be compelled to execute any lease by way of renewal, is not within the Territory or is not amenable to legal process, a judge upon the application of any person entitled to such renewal, whether such person is or is not under any disability, may direct such person as he thinks proper to appoint for that purpose to accept a surrender of the subsisting lease, and to make and execute a new lease in the name of the person who ought to have renewed the same.

Renewal by Court order

(2) A new lease executed by the person appointed under subsection (1) is as valid as if the person in whose name the lease was made was alive and not under any disability and had himself executed it.

Validity

(3) A judge may direct an action to be brought to establish the right of the person seeking renewal under this section, but he may not make the order for such new leases unless by the

Action

judgment to be made in such action, or until after it has been entered.

Payment and
performance of
covenants on
renewal

(4) A renewed lease shall not be executed by virtue of this section in pursuance of any covenant or agreement, unless the sum of money, if any, that ought to be paid on such renewal and the things, if any, that ought to be performed in pursuance of such covenant or agreement by the tenant are first paid and performed, and counterparts of every such renewed lease shall be duly executed by the tenant.

Payment into
Court

(5) All sums of money that are had, received or paid for or on account of, the renewal of any lease by any person out of the Territory or not amenable to legal process after a deduction of all necessary incidental charges and expenses, shall be paid to such person or in such manner or into Court to such account and be applied and disposed of as a judge directs.

Costs

(6) The judge may order the costs and expenses of and relating to the application, orders, directions, conveyances and transfers, or any of them, to be paid and raised out of or from the land, or the rents in respect of which the same are respectively made, in such manner as he deems proper. R.O. 1958, c. 63, s. 42.

PART II

OVERHOLDING TENANTS

LIABILITY OF TENANTS OVERHOLDING

After notice by
landlord

43. (1) Where a tenant or other person who is in possession of any land by, from or under or by collusion with such tenant wilfully holds over the land or any part thereof after the determination of the term, if notice in writing requiring delivery of the possession thereof is given by his landlord or the person to whom the remainder or reversion of such land belongs or his agent thereunto lawfully authorized, the tenant or other person so holding over shall, for and during the time he so holds over or keeps the person entitled out of possession, pay to such person or his assigns at the rate of double the yearly value of the land so detained for so long as the same is detained, to be recovered by action before a judge, against the recovering of which penalty there is no relief. R.O. 1958, c. 63, s. 43.

After notice

44. (1) Where a tenant gives notice of his intention to quit the premises by him holden at a time mentioned in the

notice, and does not then deliver up the possession of the premises the tenant shall from thenceforward pay to the landlord double the rent or sum that he should otherwise have paid, to be levied, sued for and recovered at the same times and in the same manner as the single rent or sum before the giving of such notice could be levied, sued for or recovered, and such double rent or sum shall continue to be while such tenant continues in possession. R.O. 1958, c. 63, s. 44.

PROCEEDINGS AGAINST OVERHOLDING TENANTS

45. (1) In sections 45 to 51, "tenant" includes every lessee, occupant, subtenant and their assigns and legal representatives. R.O. 1958, c. 63, s. 45. Definition of "tenant"

46. (1) When a tenant, upon the determination of his lease or right of occupation, whether created by writing or by parol, wrongfully refuses or neglects upon demand made in writing to go out of possession of the land demised to him or which he has been permitted to occupy, the landlord may apply, upon affidavit, to a judge, to make the inquiry provided for in sections 45 to 52. Application by landlord

(2) The landlord shall Affidavit

- (a) set forth on an affidavit the terms of the demise or right of occupation, if verbal;
- (b) annex a copy of the instrument creating or containing the lease or right of occupation, if in writing, or if for any cause a copy cannot be so annexed, make a statement setting forth the terms of the demise or occupation and the reason why such copy cannot be annexed;
- (c) annex a copy of the demand;
- (d) state the refusal of the tenant to go out of possession, and the reasons given for such refusal, if any were given; and
- (e) add such explanation in regard to the ground of such refusal as the truth of the case may require.

(3) The judge shall, in writing, appoint a time and place at which he will inquire and determine whether the tenant holds possession against the right of the landlord, and whether the tenant, having no right to continue in possession, wrongfully refuses to go out of possession. Appointment of hearing

(4) A copy of the appointment of the judge and of the affidavit on which it was obtained, and copies of the documents to be used upon the application other than of the Service on tenant

instrument creating or containing the lease or right of occupation, shall be served upon the tenant or left at his place of abode at least three days before the day appointed, if the place appointed is not more than twenty miles from the tenant's place of abode, and one day in addition to every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles. R.O. 1958, c. 63, s. 46.

Postponement of hearing

47. (1) The judge may, upon an application being made to him under section 46, or at any time thereafter pending the proceedings, having regard to the convenience of the parties, the costs of the proceedings and other considerations, and subject to such conditions as may to him seem just, direct that the case stand over to be heard and disposed of. R.O. 1958, c. 63, s. 47.

Application of *Judicature Ordinance*

48. (1) Except as otherwise varied by this Part, the provisions of the *Judicature Ordinance* apply to applications made and proceedings had under this Part. R.O. 1958, c. 63, s. 48.

Style of cause

49. (1) The proceedings under this Part shall be styled: "In the matter of _____, landlord, against _____, tenant". R.O. 1958, c. 63, s. 49.

Failure to appear

50. (1) Where, at the time and place appointed the tenant fails to appear, the judge, where it appears to him that the tenant wrongfully holds against the right of the landlord, may order a writ of possession in Form B, in Schedule I directed to the sheriff, commanding him forthwith to place the landlord in possession of the land.

Summary hearing

(2) Where the tenant appears the judge shall, in a summary manner, hear the parties and their witnesses and examine into the matter and may take evidence orally or by affidavit as he thinks fit, and if it appears to the judge that the tenant wrongfully holds against the right of the landlord he may order the issue of a writ of possession in Form B in Schedule I.

Costs

(3) Upon an application under section 46 the judge may by order award costs according to the tariff of costs from time to time in force under the *Judicature Ordinance*, or may order payment of a lump sum by way of costs.

Order for costs

(4) An order for the payment of costs by the judge may be filed in the office of the Clerk of the Court and shall thereupon become a judgment of the Court.

(5) No order under subsection (4) shall be made if it appears to the judge that, in the circumstances of the case, the right to possession should not be determined by proceedings under this Part and in such case the taking of proceedings under this Part does not affect or detract from any other remedy which a landlord may have against his tenant. R.O. 1958, c. 63, s. 50.

Where proceedings improperly taken

51. (1) The judge has the same power to amend or excuse irregularities in the proceedings as he has in an action. R.O. 1958, c. 63, s. 51.

Irregularities

52. (1) The decision of the judge respecting the order granting or refusing a writ of possession is final. R.O. 1958, c. 63, s. 52.

Decision

53. (1) Nothing in this Part shall require a landlord to proceed under this Part instead of by bringing an action. R.O. 1958, c. 63, s. 53.

Action by landlord

PART III

SUMMARY PROCEEDINGS FOR NON-PAYMENT OF RENT

54. (1) Where a tenant fails to pay his rent within seven days of the time agreed on, and wrongfully refuses or neglects upon demand made in writing, to pay the rent or deliver up the premises demised, which demand shall be served upon the tenant or upon some grown-up person upon the premises, or if the premises be vacant, be affixed to the dwelling or other building or otherwise posted up upon the premises, the landlord or his agent may file with the Clerk of the Court an affidavit setting forth the terms of the lease or occupancy, the amount of rent in arrears and the time for which it is so in arrears, producing the demand made for the payment or rent or delivery of the possession and stating the refusal of the tenant to pay the rent or to deliver up possession, and the answer of said tenant, if any answer were made, and that the tenant has no right of set-off or reason for withholding possession.

Application by affidavit

(2) Upon filing the documents mentioned in subsection (1) the Clerk shall cause to be issued a summons in Form C, in Schedule I, calling upon the tenant, three days after service, to show cause why an order should not be made for delivering

Summons

up possession of the premises to the landlord, and the summons shall be served in the same manner as the demand.

Hearing

(3) Upon the return of the summons mentioned in subsection (2) a judge shall hear the evidence adduced upon oath, either orally or by affidavit as he may deem proper, and make such order, either to confirm the tenant in possession or to deliver up possession to the landlord, as the facts of the case may warrant, and such order for delivery of possession may be in Form D, in Schedule I.

Ejection

(4) Where the order mentioned in subsection (3) recites that the tenant shall deliver up possession and he refuses, the sheriff or any of his officers shall, with such assistance as he may require, forthwith proceed under the order to eject and remove the tenant together with all goods and chattels that he may have on or about the premises, and make the rent in arrears and place the landlord in possession of the premises.

Stay of proceedings

(5) Where any tenant before the execution of the order mentioned in subsection (3) pays the rent in arrears and all costs, the proceedings shall be stayed and the tenant may continue in possession as of his former tenancy.

Entry of premises

(6) Where the premises in question are vacant, or the tenant is not found in possession, or if in possession he refuses on demand made in the presence of a witness to admit the sheriff or any of his officers, the latter, after a reasonable time has been allowed to the tenant or person in possession to comply with the demand for admittance, may force open any outer door in order to gain an entrance, and may also force any inner door for the purpose of ejecting the tenant or occupant and giving proper possession of the premises to the landlord or his agent. R.O. 1958, c. 63, s. 54.

Costs

55. (1) The judge may by order award costs according to the tariff of costs from time to time in force under the *Judicature Ordinance*, or may order payment of a lump sum by way of costs.

Costs added to rent

(2) Where the landlord is awarded costs against the tenant, the costs so awarded may be added to the cost of the levy for rent, if such levy is or is to be made.

Order for costs

(3) An order for the payment of costs by the judge may be filed in the office of the Clerk of the Court and shall thereupon become a judgment of the Court. R.O. 1958, c. 63, s. 55.

56. (1) No appeal lies from the order of a judge made under section 54. R.O. 1958, c. 63, s. 56. No appeal

57. (1) In this section and in sections 58 and 59, Definitions

“lease” means every agreement in writing, and every parol agreement whereby one person as landlord confers upon another person as tenant the right to occupy land, and every sublease, and every agreement for a sublease and every assurance whereby any rent is secured by condition; “lease”

“mining lease” means a lease, grant or licence for mining purposes, including the searching for, workings, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture carrying away or disposing of mines or minerals, and substances in, on or under the land, obtainable by the underground or by surface working or purposes connected therewith; “mining lease”

“sublease” includes an agreement for a sublease where the sublessee has become entitled to have his sublease granted; “sublease”

“subtenant” includes any person deriving title under a sublease; and “subtenant”

“tenant” includes every lessee, occupant, subtenant and their assigns and legal representatives. R.O. 1958, c. 63, s. 57. “tenant”

58. (1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease other than a proviso in respect of the payment of rent, is not enforceable, in any case in which the breach is capable of remedy or of being compensated by money payment, unless and until Right of re-entry or forfeiture

(a) the landlord serves on the tenant a notice specifying the particular breach, and requiring the tenant to remedy or to make compensation in money for the breach, and Notice by landlord

(b) the tenant fails, within a reasonable time after the service of the notice, to remedy the breach, or to make compensation in money to the satisfaction of the landlord for the breach. Failure to compensate

(2) Where a landlord is proceeding by action or otherwise to enforce any right of re-entry or forfeiture, whether for nonpayment of rent or for other cause, the tenant may in the landlord’s action, if any, or if there is no such action pending, Relief of tenant

then in an action brought by himself, apply to a judge for relief, and the judge may grant such relief as having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances the judge thinks fit, and on such terms as to payment of rent, costs, expenses, damages, compensation, penalty or otherwise, including the granting of an injunction to restrain any like breach in the future as the judge may deem just.

Implied and express proviso

(3) This section applies whether the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease or is implied therein.

Term of lease

(4) For the purposes of this section a lease limited to continue as long as the tenant abstains from committing a breach of covenant is and takes effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.

Payment into Court

(5) Where an action is brought to enforce a right of re-entry or forfeiture for non-payment of rent and the tenant, at any time before judgment, pays into Court all the rent in arrears and the costs of the action, the cause of action shall be at an end.

Grant of relief

(6) Where relief is granted under this section the tenant shall hold and enjoy the demised premises according to the lease thereof made without any new lease.

Covenant to insure

(7) Where the right of re-entry or forfeiture is in respect of a breach of a covenant or condition to insure, relief shall not be granted if at the time of the application for relief there is not a policy of insurance in force in conformity with the covenant or condition to insure except in addition to any other terms which the judge may impose, upon the term that the insurance is effected.

Application

(8) This section applies to leases made either before or after the commencement of this Ordinance and notwithstanding any stipulation to the contrary.

Exemptions

(9) This section does not extend

Covenant to sublease

(a) to a covenant or condition against the assigning, underletting, parting with the possession or disposing of the land leased;

Covenant in mining lease to inspect

(b) in the case of a mining lease, to a covenant or condition for allowing the landlord to have access or inspect books, accounts, records, weighing machines or other

things, or to enter or inspect the mine or the working thereof; or

- (c) to a condition for forfeiture on the bankruptcy of the tenant or on the taking in execution of the lessee's interest if contained in
- (i) a lease of agriculture or pastoral land,
 - (ii) a mining lease,
 - (iii) a lease of a house let as a dwelling-house with the use of any furniture, books, works of art or other chattels not being of the nature of fixtures, or
 - (iv) a lease of land with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground of neighbourhood to the landlord, or to any person holding under him.

Condition re
bankruptcy and
execution

(10) Where the whereabouts of the tenant cannot be ascertained after reasonable enquiry or if the tenant is evading service, the notice referred to in subsection (1) may be served on the tenant by leaving the same at the place of residence of the tenant with any adult person for the time being in charge thereof, and if the premises are unoccupied, the notice may be served by posting up the same in a conspicuous manner upon some part of the demised premises. R.O. 1958, c. 63, s. 58.

Service of notice

59. (1) Where a landlord is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease or for non-payment of rent, a judge, on application by any person claiming as subtenant any estate or interest in the property comprised in the lease or any part thereof, either in the landlord's action, if any, or in any action brought or summary application made to the judge by such person for that purpose, may make an order vesting for the whole term of the lease or any less term the property comprised in the lease, or any part thereof, in any person entitled as subtenant to any estate or interest in such property upon such conditions, as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security or otherwise, as the judge in the circumstances of each case thinks fit, but in no case is the subtenant entitled to require a lease to be granted to him for any longer term than he had under his original sublease. R.O. 1958, c. 63, s. 59.

Application by
subtenant

SCHEDULE I

FORM A

NOTICE OF SET-OFF

Take notice that under the *Landlord and Tenant Ordinance* I wish to set-off against rent due by me to you the debt which you owe to me on your promissory note for..... dated.....(or as the case may be)..... Dated this.....day of.....(tenant).

FORM B

WRIT OF POSSESSION

Canada, Elizabeth the Second, by the Grace of God of
 To Wit: the United Kingdom, Canada and Her other
 Realms and Territories, Queen, Head of the Commonwealth, Defender of the Faith.

(L.S.)
 To the sheriff (or bailiff) of _____ Greeting.

Whereas
 Judge of the Territorial Court of the Yukon Territory by his order, dated the _____ day of _____ 19____ made in pursuance of the *Landlord and Tenant Ordinance*, on the complaint of _____ against _____ adjudged that _____ was entitled to the possession of _____ with the appurtenances, in your bailiwick, and ordered that a writ should be issued by our said Judge accordingly, and also ordered and directed that the said _____ should pay the costs of the proceedings under the said Ordinance, which by our said Judge have been taxed at the sum of _____ dollars;

Therefore, we command you that without delay you cause the said _____ to have possession of the said lands and premises, with the appurtenances; and we also command you that of the goods and chattels of the said _____ in your bailiwick, you cause to be made the sum of _____ dollars, being the said costs

R.O. 1958, c. 63, Sched.

so taxed by our said Judge as aforesaid, and have that money before our said Judge immediately after the execution hereof, to be rendered to the said

And in what manner you shall have executed this writ, make appear to our said Judge immediately after the execution hereof; and have there then this writ.

Witness, etc.

(Signed)
(Clerk of the Court)

FORM C

SUMMONS FOR EVICTION

In the matter of _____ landlord,
and _____ tenant,

and the *Landlord and Tenant Ordinance*.

To the above named
You are hereby summoned to appear before

Judge, at his chambers in the _____,
on the third day after service of a copy hereof upon you, or as provided by the *Landlord and Tenant Ordinance* in that behalf, at the hour of _____ o'clock in the _____ noon, to show cause why an order should not be made for the delivery up to the said _____ as landlord, of the premises mentioned in his demand, that is to say _____; and, further to show cause why an order should not at the same time be made for payment by you of the rent alleged to be in arrears for said premises to said landlord, to be made or levied by distress or otherwise, and also as to the costs of these proceedings.

In default of you so appearing, the said landlord may proceed to obtain such order against you as to the

Judge it may seem proper to grant.

Dated at _____, this _____ day of

A.D. 19

By the Court,

(Signed)
(Clerk of the Court)

R.O. 1958, c. 63, Sched.

FORM D

ORDER FOR POSSESSION

In the matter of _____ landlord,
 and _____ tenant,
 and the *Landlord and Tenant Ordinance*.

Upon reading the notice of demand in this case, the affidavit of service thereof, the affidavit of proof of the terms of the demise, of the summons issued herein by me and the affidavit of service thereof on the said tenant, and no cause being shown by said tenant upon the return of said summons (or, and the said tenant appearing but failing to disprove the allegations of said landlord, as the case may be), I do order that the said tenant do, upon the production to him of this Order, forthwith deliver up possession of the premises in question, namely (_____), to the said landlord, or his proper agent or attorney, of whose authority the possession of this warrant shall be sufficient proof; and in case of refusal by said tenant so to deliver up possession, or of said tenant being absent or said premises vacant, I do hereby, in accordance with the provisions of the Ordinances in that behalf, authorized

with such assistance as he may require, forthwith to proceed to eject and remove the said tenant, together with his goods and chattles, if any, from and out of the said premises, and whether said tenant be found in possession thereof or said premises be vacant, put the landlord in possession, that the said landlord take and hold possession thereof freed from said demise; and I do further order that the said _____ do make the rent in arrears for said premises, amounting to the sum of _____ dollars to the landlord, as his costs of this proceeding, to be paid by said tenant or, in default of payment, to be proceeded for and recovered as allowed by law.

Dated at _____ this _____ day of

A.D. 19 _____ .

(Signed)

Judge

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

R.O. 1958, c. 63, Sched.

CHAPTER L-3

LANDS ORDINANCE

1. This Ordinance may be cited as the *Lands Ordinance*. Short title
1968 (3rd) c. 1, s. 1.
2. (1) In this Ordinance "lands" means lands to which this Ordinance applies. 1968 (3rd) c. 1, s. 2. Lands defined
3. (1) This Ordinance applies in respect of Application
- (a) lands acquired before or after the coming into force of this Ordinance, with Territorial Funds;
 - (b) public lands, the administration of which has, before or after the coming into force of this Ordinance, been transferred by the Governor in Council to the Commissioner;
 - (c) lands acquired by the Commissioner pursuant to tax sale proceedings;
 - (d) all roads, streets, lanes and trails on public lands; and
 - (e) any other lands that are subject to the control of the Commissioner in Council. 1968 (3rd) c. 1, s. 3.
4. (1) The Commissioner may dispose of lands that in the opinion of the Commissioner are not required for public purposes. Power to direct disposition of lands
- (2) All agreements providing for the disposition of lands shall be in writing and shall be signed by the Commissioner and be sealed with the seal of the Territory. 1968 (3rd) c. 1, s. 4. Execution of agreements
5. (1) The Commissioner may make regulations Regulations
- (a) providing for the appraisal of lands and for the manner in which lands are to be offered for sale or other disposition;
 - (b) prescribing the terms and conditions of any sale, lease or licence to occupy of lands; and
 - (c) prescribing the fees to be payable to the Commissioner upon any disposition of lands. 1968 (3rd) c. 1, s. 5.
6. (1) The Clerk of the Council shall lay before the Territorial Council a copy of every document disposing of lands

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Lands

at the session of the Council next following the date of such document. 1968 (3rd) c. 1, s. 6.

CHAPTER L-4

LEGAL PROFESSION ORDINANCE

- | | |
|---|--|
| <p>1. This Ordinance may be cited as the <i>Legal Profession Ordinance</i>. R.O. 1958, c. 64, s. 1.</p> | <p>Short title</p> |
| <p>2. (1) In this Ordinance</p> | <p>Definitions</p> |
| <p>“annual practice certificate” means a valid and subsisting certificate issued under the provisions of section 7;</p> | <p>“annual practice certificate”</p> |
| <p>“annual non-practice certificate” means a valid and subsisting certificate issued under the provisions of section 8;</p> | <p>“annual non-practice certificate”</p> |
| <p>“barrister and solicitor” means a barrister and solicitor whose name is written on the roll;</p> | <p>“barrister and solicitor”</p> |
| <p>“certificate year” means the period from the first day of April in any year to the thirty-first day of March in the next year;</p> | <p>“certificate year”</p> |
| <p>“Crown Attorney” means the person who holds the office of Crown Attorney for the Yukon Territory;</p> | <p>“Crown Attorney”</p> |
| <p>“Legal Adviser” means the person who holds the office of Legal Adviser to the Council of the Yukon Territory;</p> | <p>“Legal Adviser”</p> |
| <p>“registration certificate” means a valid and subsisting certificate issued under the provisions of section 5;</p> | <p>“registration certificate”</p> |
| <p>“Roll” means the Barristers and Solicitors Roll referred to in section 3;</p> | <p>“Roll”</p> |
| <p>“Secretary” means the Territorial Secretary of the Yukon Territory. R.O. 1958, c. 64, s. 2; 1970 (3rd) c. 6, s. 1.</p> | <p>“Secretary”</p> |
| <p>3. (1) The Secretary shall keep the Barristers and Solicitors Roll for the Yukon Territory which shall be the Roll prepared and kept on the 11th day of May, 1950, under the provisions of <i>The Legal Profession Ordinance</i>, being Chapter 50 of the Consolidated Ordinances of the Yukon Territory, 1914, with such additions and alterations as are from time to time made thereto under the provisions of this Ordinance.</p> | <p>Barristers and Solicitors Roll</p> |
| <p>(2) Upon the production to the Secretary of a registration certificate issued by the Court and on payment of the prescribed fee, the Secretary shall cause the name of the person</p> | |

designated in such certificate to be entered on the Roll with the date of such entry.

(3) The Secretary shall also cause the name of the person who from time to time holds office of Legal Adviser or the office of Crown Attorney to be entered on the Roll with the date of such person's appointment to that office.

(4) Where any name is improperly omitted from or inserted on the Roll, or where a mistake occurs in any name on the Roll, the Court may, upon notice being given to the person whose name is improperly omitted, inserted or written on the Roll, order the Secretary to add, strike off or correct such name in the manner the Court directs and the Secretary shall comply with such order and shall note on the Roll opposite the name affected the date of and authority for such change.

(5) The Secretary shall keep the Roll in his office.

(6) Upon payment of a fee of fifty cents any person may inspect the Roll at any time during the hours when the office of the Secretary is open to the public.

(7) The Clerk of the Court shall keep in his office at Whitehorse, in the Yukon Territory, a copy of the Roll containing the additions, alterations and changes made therein from time to time and such copy shall be open for inspection by any person during the hours when the Clerk's office is open to the public.

(8) Production of a certificate of the Secretary shall be sufficient proof of enrolment as a barrister and solicitor. R.O. 1958, c. 64, s. 3; 1968 (4th) c. 12, s. 1; 1970 (3rd) c. 6, s. 2.

Persons entitled
to be named on
Roll

4. (1) In addition to the persons enrolled as barristers and solicitors on the 11th day of May, 1950, the following persons, subject to their compliance with the provisions of this Ordinance, shall be entitled to be named on the Roll:

(a) a person who

- (i) has been duly called to the bar of a province of Canada or has been admitted to practise as an attorney, advocate, barrister or solicitor in any of Her Majesty's Superior Courts therein.
- (ii) produces evidence satisfactory to the Court of the call or admission referred to in subparagraph (i),
- (iii) produces testimonials satisfactory to the Court of good character and of good standing in the Law Society of the province of which he is an attorney, advocate, barrister or solicitor, and

- (iv) is a British subject of the age of twenty-one years and upwards; and
- (b) a person who
 - (i) is a graduate of a recognized law school in Canada approved by the Commissioner,
 - (ii) has completed twelve months' service under articles to a barrister and solicitor actively practising within the Territory,
 - (iii) is a British Subject and of the age of twenty-one years and upwards, and
 - (iv) produces testimonials of good character satisfactory to the Court. R.O. 1958, c. 64, s. 4.

5. (1) A person who is qualified to be named on the Roll under section 4. and who is an applicant for a registration certificate, shall publish in the *Yukon Gazette* for two consecutive weeks a notice which states

Publication in
Yukon Gazette

- (a) the name and residence of the person seeking enrolment;
- (b) the qualification upon which he relies; and
- (c) the time and place at which he will make application.

(2) A person who produces to the Court evidence that he has satisfied the provisions of section 4 and has published the notice required by subsection (1), shall be entitled to a registration certificate from the Court stating that he is entitled to be enrolled as a barrister and solicitor in the Territory.

(3) A registration certificate shall be in the prescribed form and shall be signed by the Clerk of the Court and sealed with the seal of the Court. R.O. 1958, c. 64, s. 5; 1968 (4th) c. 12, s. 2.

6. (1) A person who is granted a registration certificate shall forthwith pay to the Secretary the prescribed fee. R.O. 1958, c. 64, s. 6; 1968 (4th) c. 12, s. 3; 1971 (1st) c. 20, s. 13 (1).

Enrolment fee

7. (1) Subject to sections 8 and 11 and to subsection (4) of this section, every person whose name appears on the Roll shall pay to the Secretary, on or before the thirty-first day of March in each year, the prescribed annual practice fee.

Annual practice
fee and certifi-
cate

(2) Upon receipt of the annual practice fee the Secretary shall issue to the barrister and solicitor who pays the same an annual practice certificate in the prescribed form.

(3) An annual practice certificate shall expire on the thirty-first day of March next following the day upon which it was issued.

(4) Where application for enrolment is made by the holder of a registration certificate under section 4, he shall pay to the Secretary his first annual practice fee at the same time he pays the fee required by section 6. R.O. 1958, c. 64, s. 8; 1968 (4th) c. 12, s. 5; 1971 (1st) c. 20, s. 13 (2).

Annual non-practice fee and certificate

8. (1) Where a barrister and solicitor does not intend to practice as a barrister and solicitor at any time during any certificate year, he may

- (a) file with the Secretary a statutory declaration stating that he does not intend to practice as a barrister and solicitor at any time or times within the specified certificate year; and
- (b) pay to the Secretary the prescribed annual non-practice fee.

(2) Upon receipt of such declaration and fee the Secretary shall issue to the barrister and solicitor an annual non-practice certificate in the prescribed form for the certificate year therein specified. R.O. 1958, c. 64, s. 9; 1968 (4th) c. 12, s. 6; 1971 (1st) c. 20, s. 13 (3).

Procedure and fees to resume practice

9. (1) A barrister and solicitor, who has not paid his annual fee for any year or years since his enrolment and who wishes to resume practise as a barrister and solicitor in the Territory, may

- (a) file with the Secretary a statutory declaration stating that he has not at any time when he was not the holder of an annual practice certificate issued under this Ordinance, practised as a barrister and solicitor in the Territory and his reasons for not so practising;
- (b) pay to the Secretary the non-practice fee for every year in which, since his enrolment, he has not held such an annual practice certificate; and
- (c) pay to the Secretary the full annual practice fee for the then current certificate year.

(2) Upon receipt of the declaration and the full amount of the sums mentioned in subsection (1), the Secretary shall issue to the barrister and solicitor an annual practice certificate for the then current certificate year. R.O. 1958, c. 64, s. 10; 1968 (4th) c. 12, s. 7; 1971 (1st) c. 20, s. 13 (4).

10. (1) Before any person enrolled as a Barrister and Solicitor begins the practice of his profession as such, he shall be presented to the court by a Barrister and Solicitor in good standing, and shall take and subscribe before the Judge of the Court, in open court,

(a) an oath of allegiance in the following form :

OATH OF ALLEGIANCE

I,, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the II, Her Heirs and Successors, according to law.

So Help Me God.

(b) an official oath in the following form

OFFICIAL OATH

I,, do swear that I will diligently, faithfully and to the best of my ability execute according to law the office of Barrister and Solicitor and that I will as a Barrister and Solicitor conduct all causes and matters faithfully and to the best of my ability; I will not seek to destroy any man's property; I will not promote suits upon frivolous pretences; I will not pervert the law to favour or prejudice any man; but in all things conduct myself truly and with integrity; in fine, the sovereign interest and that of my fellow citizens, I will support and maintain according to the law in force in this territory.

So Help Me God.

R.O. 1958, c. 64, s. 11; 1967 (2nd) c. 9, s. 1.

11. (1) The Legal Adviser and the Crown Attorney and any person mentioned in section 24 shall be deemed to be duly qualified barristers and solicitors practising in the Territory. R.O. 1958, c. 64, s. 12; 1970 (3rd) c. 6, s. 3.

Persons deemed qualified to practise

12. (1) No person is entitled to recover a fee, reward or remuneration for professional services rendered as a barrister and solicitor unless at the time the services are rendered he holds an annual practice certificate. R.O. 1958, c. 64, s. 13.

13. (1) Any person, not being the holder of an annual practice certificate who, within the Territory

Offences and penalties

(a) publicly or privately for hire, gain or hope of reward practises as a barrister or solicitor;

(b) appends to his name the title of barrister or solicitor or any word used in substitution for or in abbreviation thereof;

(c) holds himself out in any way to be duly qualified to practise as a barrister or solicitor ;
(d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as a barrister or solicitor ;
(e) holds himself out as a partner or agent of any barrister or solicitor ; or
(f) participates in the profits as profits of the office or any business of any barrister or solicitor carried on or transacted as the practice of such barrister or solicitor ;
commits an offence and is liable upon summary conviction to a fine of one hundred dollars for the first offence and two hundred dollars for each subsequent offence.

(2) Any person who assists a person to contravene any provision of this section or of section 12 commits an offence and is liable upon summary conviction to a fine of one hundred dollars for the first offence and two hundred dollars for each subsequent offence and if he is a barrister and solicitor, shall be struck off the Roll and disqualified from practising as a barrister and solicitor.

(3) Any person who contravenes any provision of this section commits contempt of Court and may be so dealt with by the Court.

(4) Any person doing any of the acts prohibited by this section shall be incapable of recovering any fee, reward or disbursement on account thereof, and any sum paid to such person therefor may be recovered by the person paying the same.

(5) Nothing in this section shall be deemed to prevent any person acting on his own behalf in any action, cause, suit or matter. R.O. 1958, c. 64, s. 14.

Time limit for
prosecution

14. (1) In the case of an offence under this Ordinance punishable upon summary conviction, the complaint shall be made or the information laid within one year from the time when the matter of the complaint or information arises. R.O. 1958, c. 64, s. 15.

15. (1) All barristers and solicitors shall be officers of the Court and other civil courts of the Territory and the Court or any judge thereof shall possess and exercise the same powers and jurisdiction over and in respect of such barristers and solicitors as on the 26th day of March, 1915, was possessed by the Supreme Court of Judicature in England over and in

respect of solicitors of the said last mentioned Court. R.O. 1958, c. 64, s. 16.

16. (1) No barrister and solicitor shall wilfully and knowingly act as the professional agent of any person not duly enrolled and qualified to act as a barrister and solicitor or suffer his name to be used in any such agency on account of or for the profit of any unqualified person or send any process to such person or do any other act to enable such person to practise in any respect as a barrister and solicitor knowing him not to be duly qualified.

Barristers and solicitors not to be agents or partners of unqualified persons

(2) No barrister and solicitor shall enter into any partnership agreement or arrangement in the nature of a partnership, or into any agreement or arrangement for sharing or dividing costs, proceeds or profits or the fruits of any litigation or of any legal business transacted by such barrister and solicitor with any person not duly enrolled and qualified to practise as a barrister and solicitor in the Territory. R.O. 1958, c. 64, s. 17.

17. (1) The Legal Adviser shall enquire into and thoroughly investigate any complaint made to him by any person against any barrister and solicitor for any cause whatsoever, or against any person for any violation of any of the provisions of this Ordinance.

Investigation and action of Legal Adviser

(2) The Legal Adviser, if the complaint is well founded, shall take proceedings for disciplining or otherwise punishing such barrister and solicitor or other person in the manner provided therefor in this Ordinance. R.O. 1958, c. 64, s. 18.

18. (1) If upon application by any person concerned, supported by affidavit, made to the Court, it appears *prima facie* that a barrister and solicitor has been guilty of

Notice and penalty

- (a) professional misconduct or conduct unbecoming a barrister and solicitor;
- (b) such misconduct as would in England be sufficient to bring a solicitor under the punitive powers of the Supreme Court of Judicature; or
- (c) a breach of any of the provisions of this Ordinance;

the Court shall cause notice to be given to such barrister and solicitor calling upon him to answer the charges and at the time and place appointed by such notice shall hear the complainant and the barrister and solicitor and any evidence adduced by them or either of them.

(2) If the Court finds the complaint well founded it shall direct that the name of such barrister and solicitor be struck off the Roll or shall suspend him from practising for such period as may be considered proper or make such other order as is just. R.O. 1958, c. 64, s. 19.

Notice may be given to Legal Adviser

19. (1) The Court may order that notice of any application made under section 18 be given by the complainant to the Legal Adviser and to such other person or persons as the Court thinks proper, and the Legal Adviser and the person or persons so notified may appear in person or by barrister and solicitor on such application.

(2) The conduct of an application made under section 18 may be entrusted by the Court to the Legal Adviser. R.O. 1958, c. 64, s. 20.

Name suppressed

20. (1) In any application made to the Court under the provisions of sections 13, 16 and 17, the name of the barrister and solicitor complained of shall be suppressed and all proceedings shall be headed: "In the matter of a Barrister and Solicitor", until the Court directs the insertion of the name of such barrister and solicitor. R.O. 1958, c. 64, s. 21.

Certificate to Secretary where name struck off Roll

21. (1) Whenever any barrister and solicitor is struck off the Roll or suspended from practising the Clerk of the Court shall certify the same under his hand and seal of the Court to the Secretary who shall file such certificate and shall make a note opposite the name of the person on the Roll of his having been struck off the same or suspended, and in the case of suspension of the time of such suspension. R.O. 1958, c. 64, s. 22.

Application and procedure to restore name

22. (1) The Court may, on application made for that purpose, and when in the opinion of the Court the subsequent conduct of the barrister and solicitor and the facts warrant it, order the name of any barrister and solicitor struck off the Roll to be restored thereto upon such terms as to the payment of money or otherwise as the Court directs, and in such case the Clerk of the Court shall certify the same under his hand and the seal of the Court to the Secretary, who shall file such certificate and make a note opposite the name of such person on the Roll of his having been restored thereto.

(2) Notice of such application shall be given to the Secretary, the Legal Adviser and such other person or persons as the Court or a judge upon *ex parte* application directs and the

persons so notified may appear in person or by barrister and solicitor and oppose or consent to the application.

(3) Before being entitled to be restored to the Roll under this section the person whose name is sought to be restored shall pay all arrears of fees due by him to the Secretary including the fees for the period which has elapsed since he was struck off the Roll. R.O. 1958, c. 64, s. 23; 1968 (4th) c. 12, s. 8.

23. (1) The Legal Adviser may institute or authorize the institution of any proceedings under this Ordinance for any breach of its provisions. R.O. 1958, c. 64, s. 25.

Application and
procedure to
restore name

24. (1) A Barrister and Solicitor who in the course of his duties as an employee of the Government of Canada, or the Government of the Yukon Territory, is required to practice law in the Territory shall be deemed to have complied with those requirements of this Ordinance which in the absence of this section would otherwise have to be observed before he could practice law in the Territory. 1962 (1st) c. 14, s. 1; 1967 (2nd) c. 9, s. 2.

Legal Adviser's
power to insti-
tute proceedings

25. (1) The Commissioner may make regulations

- (a) prescribing forms; and
- (b) prescribing fees to be charged under this Ordinance.
1971 (1st) c. 20, s. 13 (5).

CHAPTER L-5

LEGAL PROFESSION ACCOUNTS ORDINANCE

1. This Ordinance may be cited as the *Legal Profession Accounts Ordinance*. 1965 (1st) c. 1, s. 1. Short title

2. (1) In this Ordinance Definitions

“barrister and solicitor” shall include a person who is either a barrister or a solicitor, a firm of barristers and solicitors and a firm of solicitors; “barrister and solicitor”

“money” includes currency, government or bank notes, cheques, drafts, post office and express and bank money orders; “money”

“client” is a person or body of persons, corporate or incorporate, on whose behalf a barrister or a solicitor receives money in connection with his practice; “client”

“clients’ account” shall mean clients’ or trust bank account; “clients’ account”

“Legal Adviser” means a person who holds the office of Legal Adviser to the Council of the Yukon Territory. 1965 (1st) c. 1, s. 2. “Legal Adviser”

3. (1) Every barrister and solicitor carrying on the practice of law in the Yukon Territory shall keep such books, records and accounts in connection with his practice as may be necessary to show and readily distinguish Books of account

(a) money received from or on behalf of, and money paid to or on behalf of, each of his clients; and the amount of money held on behalf of each client; and

(b) money received and paid on his own behalf. 1965 (1st) c. 1, s. 3.

4. (1) (a) Every barrister and solicitor carrying on the practice of law in the Yukon Territory shall have at least one bank account in a chartered bank or trust company designated both in his books and the records of the bank as a clients’ or trust account. Clients’ funds

(b) All cheques drawn on this account shall be clearly marked as clients’ or trust account. 1965 (1st) c. 1, s. 4.

Clients' funds

5. (1) Every barrister and solicitor shall, upon receipt of the same, pay into his clients' account

- (a) all money held for or received on behalf of a client ;
- (b) money a part of which belongs to the client and is to be held on his behalf and part of which belongs to the barrister and solicitor, provided that where the money may be readily divided the money which belongs to the barrister and solicitor need not be paid into the clients' account. 1965 (1st) c. 1, s. 5.

Withdrawal from clients' account

6. (1) No money shall be withdrawn from a client's account except

- (a) money paid to a client from funds which have been deposited in a client's account to such client's credit ;
- (b) money paid on behalf of a client either from funds deposited in the client's account to such client's credit, or from funds belonging to the barrister and solicitor ;
- (c) money required for payment directly to the barrister and solicitor for or on account of services rendered to or disbursements made on behalf of a client whose money has been deposited in the client's account ;
- (d) money paid into the client's account by mistake. 1965 (1st) c. 1, s. 6.

Exemptions

7. (1) Sections 5 and 6 shall not apply to money which

- (a) a client requests the barrister and solicitor in writing to withhold from the client's account ;
- (b) the barrister and solicitor pays into a separate account opened in the name of the client or someone named by that client or his duly appointed agent ;
- (c) upon receipt is paid on behalf of the client directly to the client or to a third person in the form in which it is received. 1965 (1st) c. 1, s. 7.

8. (1) A barrister or solicitor shall at all times maintain on deposit in his clients' account sufficient funds to meet his gross liability in respect of trust funds deposited in that account and shall reconcile the gross trust liability in respect to trust funds with the funds on deposit in his clients' or trust account at least once in each period of three months. 1965 (1st) c. 1, s. 8.

9. (1) Nothing in these rules shall deprive a barrister or solicitor of any recourse or right whether by way of lien, set-off, counter claim, charge or otherwise, against money standing to the credit of a client's account. 1965 (1st) c. 1, s. 9.

10. (1) The Legal Adviser may, when he deems it necessary, order and provide for the audit of a barrister's or solicitor's books and accounts and the barrister or solicitor shall forthwith make his books and accounts fully available for examination by the Legal Adviser or person or persons designated by him in writing to conduct the audit. Audit

(2) The order of the Legal Adviser directing the audit shall be sufficiently served if served upon the barrister or solicitor personally or upon any partner or person appearing to be employed at the office of the barrister or solicitor or by registered post addressed to the barrister or solicitor. 1965 (1st) c. 1, s. 10.

11. (1) Save as hereinafter provided, every barrister and solicitor carrying on the practice of law in the Yukon Territory shall deliver to the Legal Adviser on or before the 1st day of September in each year a Certificate in Form A in Schedule I of a chartered accountant made up to the end of a twelve-month fiscal period ended no earlier than the first day of January of that year. Auditor's
Certificate

(2) If a certificate relating to a full twelve-month fiscal period ended as aforesaid cannot be delivered by a barrister or solicitor by reason of broken practice periods, practice within or without partnerships, or for any other reason approved by the Legal Adviser, such certificate shall relate to such period or periods as may be designated by the Legal Adviser, and in such case application for designation containing full particulars or the reasons therefor shall be made in writing to the Legal Adviser no later than 1st day of June in each year.

(3) Delivery of a certificate in Form A in Schedule I shall not be required in the case of a barrister or solicitor who satisfies the Legal Adviser by statutory declaration or otherwise that he has not had occasion to maintain a client's trust account. 1965 (1st) c. 1, s. 11.

12. (1) The Legal Adviser shall direct the Territorial Secretary of the Yukon Territory to withhold the issue of an Annual Practice Certificate to any barrister or solicitor who does not comply with the requirements of this Ordinance, and may apply to the judge for an order suspending the barrister or solicitor from practice until he has complied fully with the requirements of this Ordinance or the directions of the Legal Adviser given pursuant to this Ordinance. 1965 (1st) c. 1, s. 12.

SCHEDULE I

FORM A

(Section 11)

AUDITOR'S CERTIFICATE

TO: The Legal Adviser
Yukon Territorial Government
Whitehorse, Yukon Territory.

I/WE have reviewed the trust books of account and trust
accounting record of *
for the period of twelve months ending

My/Our review consisted of a general survey of the accounting
procedures and such tests of accounting records and other sup-
porting evidence as I/we consider necessary in the circumstances,
and I/we obtained all the information and explanations I/we
require.

Based on our review and survey we report that as at the.....
..... day of....., 19.....:

1. In my/our opinion
has/have kept such books, records and accounts in connection
with his/their practice as are necessary to show and readily
distinguish:

- (a) money received from or on behalf of, and money paid to
or on behalf of each of his/their clients; and the amount of
money held on behalf of each client;
(b) money received and paid on his/their own behalf.

2. has at all times
during the twelve months ended
maintained a bank account or accounts in a chartered bank or
trust company designated both in his/their books and in the
records of the bank or trust company as a clients' or trust account
or accounts.

3. has satisfied us
that he/they has/have at least once every three months for the
period covered by this Certificate reconciled the gross trust
liability in respect to trust funds as disclosed by his/their books
with the funds on deposit in his/their said clients' or trust ac-
count or accounts.

1965 (1st) c. 1, Sched.

4. That on the saidday of
19..... the funds on deposit in the said clients' trust bank or
trust company account or accounts of the said
..... were sufficient to meet his/their
gross trust liability.

The barristers and solicitors who were on the said.....
day of....., 19.....
partners or associates of the above firm and whose trust accounts
were reviewed were

DATED AT..... }
Yukon Territory, this..... }
day of..... 19..... } (Qualification)

*Where applicable, rather than repeating the name of the firm
in succeeding paragraphs, reference may be made "to the above
firm".

CERTIFICATE OF BARRISTER OR SOLICITOR
PERSONALLY OR ON BEHALF OF HIS FIRM
TO ACCOMPANY AUDITOR'S CERTIFICATE

I hereby certify that all trust accounts maintained or required
to be maintained pursuant to the *Legal Profession Accounts
Ordinance* of the Yukon Territory by the above named Barristers
and or Solicitors were disclosed to the above named.

1965 (1st) c. 1, Sched.

CHAPTER L-6

LEGITIMATION ORDINANCE

1. This Ordinance may be cited as the *Legitimation Ordinance*. R.O. 1958, c. 65, s. 1. Short title

2. (1) Where the parents of a child born out of lawful wedlock marry or have married one another after the birth of the child, whether the marriage takes place before or after the 29th day of March, 1954, the child shall, if living at the time of the marriage, be deemed for all purposes to be legitimate from the time of birth. Legitimation by subsequent marriage

(2) Nothing in this section affects any right, title or interest in or to property where the right, title or interest was vested in any person prior to the marriage. R.O. 1958, c. 65, s. 2. Does not affect vested rights

CHAPTER L-7

LIMITATION OF ACTIONS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Limitation of Actions Ordinance*. R.O. 1958, c. 66, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“action” means any civil proceeding; “action”

“assurance” means any transfer, deed or instrument, other than a will, by which land may be conveyed or transferred; “assurance”

“disability” means disability arising from infancy or a mental disorder; “disability”

“heirs” includes the persons entitled beneficially to the real estate of a deceased intestate; “heirs”

“land” includes all corporeal hereditaments, and any share or any freehold or leasehold estate or any interest in any of them; “land”

“mortgage” includes charge, “mortgagor” includes chargor, and “mortgagee” includes chargee; “mortgage”
“mortgagor”
“mortgagee”

“proceedings” includes action, entry, taking of possession, distress and sale proceedings under an order of a court or under a power of sale contained in a mortgage or conferred by Ordinance; “proceedings”

“rent” means a rent service or rent reserved upon a demise; “rent”

“rent charge” includes all annuities and periodical sums of money charged upon or payable out of land. R.O. 1958, c. 66, s. 2. “rent charge”

PART I

LIMITATION PERIODS

3. (1) The following actions shall be commenced within and not after the times respectively hereinafter mentioned: Periods of limitations

- Penal actions

(a) actions for penalties imposed by any Ordinance brought by an informer suing for himself alone or for Her Majesty as well as for himself, or by any person authorized to sue for the same, not being the person aggrieved, within one year after the cause of action arose ;
- Actions for penalties

(b) actions for penalties, damages or sums of money in the nature of penalties given by any Ordinance to Her Majesty or the person aggrieved, or partly to one and partly to the other, within two years after the cause of action arose ;
- Defamation

(c) actions for defamation, whether libel or slander, within two years of the publication of the libel or the speaking of the slanderous words, or where special damage is the gist of the action, within two years after the occurrence of such damage ;
- Trespass to person

(d) actions for trespass to the person, assault, battery, wounding or other injury to the person, whether arising from an unlawful act or from negligence, or for false imprisonment, or for malicious prosecution or for seduction within two years after the cause of action arose ;
- Trespass to property

(e) actions for trespass or injury to real property or chattels, whether direct or indirect, and whether arising from an unlawful act or from negligence, or for the taking away, conversion or detention of chattels, within six years after the cause of action arose ;
- Actions for money

(f) actions for the recovery of money, except in respect of a debt charged upon land, whether recoverable as a debt or damages or otherwise, and whether on a recognition, bond, covenant or other specialty or on a simple contract, express or implied, and actions for an account or for not accounting, within six years after the cause of action arose ;
- Fraudulent misrepresentation

(g) actions grounded on fraudulent misrepresentation, within six years from the discovery of the fraud ;
- Mistake

(h) actions grounded on accident, mistake or other equitable ground or relief not hereinbefore specially dealt with, within six years from the discovery of the cause of action ;
- Judgments

(i) actions on a judgment or order for the payment of money, within ten years after the cause of action thereon arose ; and

(j) any other action not in this Ordinance or any other Ordinance specially provided for, within six years after the cause of action arose. Other actions

(2) Nothing in this section extends to any action where the time for bringing the action is by an Ordinance specially limited. R.O. 1958, c. 66, s. 3. Exception

4. (1) When the existence of a cause of action has been concealed by the fraud of the person setting up this Part or Part II as a defence, the cause of action shall be deemed to have arisen when the fraud was first known or discovered. R.O. 1958, c. 66, s. 4. Concealed fraud

5. (1) No claim in respect of an item in an account which arose more than six years before the commencement of the action is enforceable by action by reason only of some other claim in respect of another item in the same account having arisen within six years next before the commencement of the action. R.O. 1958, c. 66, s. 5. Item in account

DISABILITIES

6. (1) Where a person entitled to bring any action mentioned in paragraphs 3(1)(c) to 3(1)(i) is under disability at the time the course of action arises, he may bring the action within the time limited by this Ordinance with respect to such action or at any time within two years after he first ceased to be under disability. R.O. 1958, c. 66, s. 6. Person under disability

ACKNOWLEDGMENTS AND PART PAYMENT

7. (1) Whenever any person who is, or would have been but for the effluxion of time, liable to an action for the recovery of money as a debt, or his agent in that behalf Subsequent acts

(a) conditionally or unconditionally promises his credit or the agent of the creditor in writing signed by the debtor or his agent to pay the debt, Promises to pay

(b) gives a written acknowledgment of the debt signed by the debtor or his agent to his creditor or the agent of the creditor, or Acknowledgments

(c) makes a part payment on account of the principal debt or interest thereon, to his creditor or the agent of the creditor, Part payments

an action to recover any such debt may be brought within six years from the date of the promise, acknowledgment or part

payment, as the case may be, notwithstanding that the action would otherwise be barred under this Ordinance.

Effect of written acknowledgment

(2) A written acknowledgment of a debt or a part payment on account of the principal debt or interest thereon has full effect whether or not a promise to pay can be implied therefrom and whether or not it is accompanied by a refusal to pay. R.O. 1958, c. 66, s. 7.

Joint contractors and covenantors

8. (1) Where there are two or more joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators of any debtor, contractor, obligor or covenantor, no such joint debtor, joint contractor, joint obligor or joint covenantor, or executor or administrator shall lose the benefit of this Ordinance so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed, or by reason of any payment of any principal or interest made, by any other or others of them. R.O. 1958, c. 66, s. 8.

Recovery against those acknowledging

9. (1) In actions commenced against two or more such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by this Ordinance, as to one or more of such joint debtors, joint contractors, joint obligors or joint covenantors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment, judgment shall be given for the plaintiff as to the defendant or defendants against whom he is entitled to recover, and for the other defendant or defendants against the plaintiff. R.O. 1958, c. 66, s. 9.

Endorsements of payments insufficient

10. (1) No endorsement or memorandum of any payment written or made upon any promissory note, bill of exchange or other writing, by or on behalf of the person to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of this Ordinance. R.O. 1958, c. 66, s. 10.

Part applies to counter-claims

11. (1) This Part applies to any claim of the nature mentioned in this Part alleged by way of counterclaim or set-off on the part of any defendant. R.O. 1958, c. 66, s. 11.

PART II

CHARGES ON LAND, LEGACIES, ETC.

12. (1) No proceedings shall be taken to recover any rent charge or any sum of money secured by any mortgage or otherwise charged upon or payable out of any land or rent charge or to recover any legacy, whether it is or is not charged upon land, or to recover the personal estate or any share of the personal estate of any person dying intestate and possessed by his personal representative, but within ten years next after a present right to recover the same accrued to some person capable of giving a discharge therefor, or a release thereof, unless prior to the expiry of such ten years some part of the rent charge, sum of money, legacy or estate or share or some interest thereon has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to such rent charge, sum of money, legacy, estate or share signed by any person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the same or his agent, and in such case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

Recovery of
money charged
on land

(2) In the case of a reversionary interest in land, no right to recover the sum of money charged thereon shall be deemed to accrue until the interest has fallen into possession. R.O. 1958, c. 66, s. 12.

Reversion not in
possession

13. (1) No proceedings shall be taken to recover any sum of money payable under an agreement for the sale of land but within ten years after a present right to recover the same accrued to some person entitled to receive the same, or capable of giving a release thereof, unless prior to the expiry of such ten years some part of the sum of money, or some interest thereon, has been paid by a person bound or entitled to make a payment thereof, or his agent in that behalf, to a person entitled to receive the same or his agent, or some acknowledgment in writing of the right to receive such sum of money signed by the person so bound or entitled, or his agent in that behalf, has been given to a person entitled to receive the same or his agent, and in case no action shall be brought but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given. R.O. 1958, c. 66, s. 13.

Recovery of
money payable
on agreement of
sale

Recovery of rent and interest charged on land

14. (1) No arrears of rent, or of interest in respect of any sum of money to which section 12 or 13 applies or any damages in respect of such arrears shall be recovered by any proceedings, but within six years, next after a present right to recover the same accrued to some person capable of giving a discharge therefor or a release thereof unless, prior to the expiry of such six years, some part of the arrears has been paid by a person bound or entitled to make a payment thereof or his agent in that behalf to a person entitled to receive the same or his agent or some acknowledgment in writing of the right to the arrears signed by a person so bound or entitled or his agent in that behalf has been given to a person entitled to receive the arrears or his agent, and in such case no proceeding shall be taken but within six years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given.

Except redemption

(2) Subsection (1) does not apply to an action for redemption or similar proceedings brought by a mortgagor or by any person claiming under him. R.O. 1958, c. 66, s. 14.

Recovery prior mortgagee in possession

15. (1) Where any prior mortgagee has been in possession of any land within one year next before an action is brought by any person entitled to a subsequent mortgage on the same land, the person entitled to the subsequent mortgage may recover in such action the arrears of interest which have become due during the whole time the prior mortgagee was in such possession or receipt, although that time may have exceeded such term of six years. R.O. 1958, c. 66, s. 15.

Recovery of sums secured by express trust

16. (1) No action shall be brought to recover any sum of money or legacy charged upon or payable out of any land or rent charged, though secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable or so secured, or any damages in respect of such arrears, except within the time which the same would be recoverable if there were not any such trust.

Saving

(2) Subsection (1) does not operate so as to affect any claim of a *cestui que trust* against his trustee for property held on an express trust. R.O. 1958, c. 66, s. 16.

PART III

LAND

RIGHT TO TAKE PROCEEDINGS

17. (1) This Part is subject to the provisions of the *Land Titles Act*. R.O. 1958, c. 66, s. 17. Part subject to
Land Titles Act

18. (1) No person shall take proceedings to recover any land but within ten years next after the time at which the right to do so first accrued to some person through whom he claims, hereinafter called "predecessor" or if such right did not accrue to a predecessor then within ten years next after the time at which such right first accrued to the person taking the proceedings, hereinafter called "claimant". R.O. 1958, c. 66, s. 18. Recovery of land

SPECIAL CASES

19. (1) Where the claimant or a predecessor has in respect of the estate or interest claimed been in possession of the land or in receipt of the profits thereof and has while entitled thereto been dispossessed or has been dispossessed or has discontinued such possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession or at the last time at which any such profits were so received. R.O. 1958, c. 66, s. 19. Right accrues on
dispossession

20. (1) Where the claimant claims the estate or interest of a deceased predecessor who was in possession of the land or in receipt of the profit thereof in respect of the same estate or interest at the time of his death and was the last person entitled to such estate or interest who was in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time of the death of the predecessor. R.O. 1958, c. 66, s. 20. Right accrues on
death of pre-
decessors

21. (1) Where the claimant claims in respect of an estate or interest in possession, granted, appointed, or otherwise assured to him or a predecessor by a person being in respect of the same estate or interest in the possession of the land or in receipt of the profits thereof and no person entitled under the assurance has been in possession or receipt, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the claimant or his pre- Right accrues
according to
assurance

decessor became entitled to such possession or receipt by virtue of the assurance. R.O. 1958, c. 66, s. 21.

Right accrues on forfeiture

22. (1) Where the claimant or the predecessor becomes entitled by reason of forfeiture or breach of condition, then the right to take proceedings to recover the land shall be deemed to have first accrued whenever the forfeiture was incurred or the condition was broken. R.O. 1958, c. 66, s. 22.

FUTURE ESTATES

When right accrues as to future estate

23. (1) Where the estate or interest claimed has been an estate or interest in reversion or remainder or other future estate or interest, including therein an executory devise and no person has obtained the possession of the land or is in receipt, of the profits thereof in respect of the estate of interest, the right to take proceedings to recover the land shall be deemed to have first accrued at the time at which the estate or interest became an estate or interest in possession, by the determination of any estate or estates in respect of which the land has been held or the profits thereof have been received notwithstanding the claimant or the predecessor has at any time previously to the creation of the estate or estates that has determined been in the possession of the land or in receipt of the profits thereof. R.O. 1958, c. 66, s. 23.

Further as to future estate

24. (1) Where the person last entitled to any particular estate on which any future estate or interest was expectant was not in possession of the land or in receipt of the profits thereof at the time when his interest determined, no proceedings to recover the land shall be taken by any person becoming entitled in possession to a future estate or interest but within ten years next after the time when the right to take proceedings first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of these two periods is the longer. R.O. 1958, c. 66, s. 24.

Proceedings barred, proceedings for subsequent interest also barred

25. (1) Where the right to take proceedings to recover the land has been barred no proceedings shall be taken by any person afterwards claiming to be entitled to the same land in respect of any subsequent estate or interest under any will or assurance executed or taking effect after the time when a right to take proceedings first accrued to the owner of the particular estate whose interest has so determined. R.O. 1958, c. 66, s. 25.

26. (1) When the right of any person to take proceedings to recover any land to which he may have been entitled for an estate or interest in possession entitling him to take proceedings has been barred by the determination of the period which is applicable, and such person has at any time during the said period been entitled to any other estate, interest, right or possibility in reversion, remainder or otherwise in or to the same land no proceedings shall be taken by him or any person claiming through him to recover the land in respect of such other estate, interest, right or possibility, unless in the meantime the land has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of the estate or interest in possession. R.O. 1958, c. 66, s. 26.

Estate in possession barred. future estate also barred

27. (1) When the right to take proceedings to recover any land first accrued to a claimant or a predecessor by reason of any forfeiture or breach of condition, in respect of an estate or interest in reversion or remainder and the land has not been recovered by virtue of such right, the right to take proceedings shall be deemed to have first accrued at the time when the estate or interest became an estate or interest in possession. R.O. 1958, c. 66, s. 27.

Where right of forfeiture not claimed

LANDLORD AND TENANT

28. (1) Where a person is in possession of land, or in receipt of the profits thereof by virtue of a lease in writing, by which a rent amounting to the yearly sum or value of four dollars or upwards is reserved, and the rent reserved by the lease has been received by some person wrongfully claiming to be entitled to the land in reversion immediately expectant on the determination of the lease, and no payment in respect of the rent reserved by the lease has afterwards been made to the person rightfully entitled thereto, the right of the claimant or his predecessor to take proceedings to recover the land after the determination of the lease shall be deemed to have first accrued at the time at which the rent reserved by the lease was first so received by the person wrongfully claiming as aforesaid and no such right shall be deemed to have first accrued upon the determination of the lease to the person rightfully entitled. R.O. 1958, c. 66, s. 28.

Rent wrongfully received right accrues on receipt

29. (1) Where a person is in possession of land or in receipt of the profits thereof as a tenant from year to year, or other period, without a lease in writing, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last

Right accrues end of first year

time, prior to his right to take proceedings being barred under any other provisions of this Ordinance, when any rent payable in respect of such tenancy was received by the claimant or his predecessor or the agent of either whichever last happens. R.O. 1958, c. 66, s. 29.

Right accrues
tenancy at will

30. (1) Where any person is in possession of any land or in receipt of the profits thereof as tenant at will, the right of the claimant or his predecessor to take proceedings to recover the land shall be deemed to have first accrued either at the determination of the tenancy or at the expiration of one year next after its commencement, at which time, if the tenant was then in possession, the tenancy shall be deemed to have been determined.

Exception

(2) No mortgagor or *cestui que trust* under an express trust shall be deemed to be a tenant at will to his mortgagee or trustee within the meaning of this section. R.O. 1958, c. 66, s. 30.

Time not to run
while fraud
concealed

31. (1) In every case of concealed fraud by the person setting up this Part as a defence, or by some other person through whom such first mentioned person claims, the right of any person to bring an action for the recovery of land of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered.

Saving purchaser

(2) Nothing in subsection (1) enables an owner of land to bring an action for the recovery of such land, or for setting aside a conveyance thereof, on account of fraud against a purchaser in good faith for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase, did not know, and had no reason to believe, that any such fraud had been committed. R.O. 1958, c. 66, s. 31.

Acknowledg-
ment equivalent
to possession

32. (1) When an acknowledgment in writing of the title of a person entitled to any land signed by the person in possession of the land or in receipt of the profits thereof or his agent in that behalf has been given to him or his agent prior to his right to take proceedings to recover the land having been barred under the provisions of this Ordinance, then the possession or receipt of or by the person by whom the acknowledgment was given shall be deemed, according to the meaning of this Ordinance, to have been the possession or receipt of or by the person to whom or to whose agent such

acknowledgment was given at the time of giving the same, and the right if the last mentioned person, or of any person claiming through him, to take proceedings shall be deemed to have first accrued at and not before the time at which the acknowledgment, or at the last of the acknowledgments, if more than one, was given. R.O. 1958, c. 66, s. 32.

PART IV

MORTGAGES OF REAL AND PERSONAL PROPERTY

REDEMPTIONS

33. (1) When a mortgagee or a person claiming through a mortgagee has obtained the possession of any property real or personal comprised in a mortgage or is in receipt of the profits of any land therein comprised the mortgagor or any person claiming through him shall not bring any action to redeem the mortgage but within ten years next after the time at which the mortgagee or a person claiming through the mortgagee obtained such possession or first received any such profits unless prior to the expiry of such ten years an acknowledgment in writing of the title of the mortgagor or of his right to redeem is given to the mortgagor or some person claiming his estate or interest or to the agent of such mortgagor or person signed by the mortgagee or the person claiming through him or the agent in that behalf of either of them; in that case, the action shall not be brought but within ten years next after the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given.

Where mortgagee in possession barred

(2) Where there is more than one mortgagor or more than one person claiming through the mortgagor or mortgagors the acknowledgment, if given to any of the mortgagors or persons or his or their agent, shall be as effectual as if the same had been given to all the mortgagors or persons.

More than one mortgagor

(3) Where there is more than one mortgagee or more than one person claiming the estate or interest of the mortgagee or mortgagees, an acknowledgment signed by one or more of such mortgagees or person or his or their agent in that behalf shall be effectual only as against the party or parties signing as aforesaid, and the person or persons claiming any part of the mortgage money or property by, through or under him or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests and shall not operate to give to the mortgagor or mortgagors a

Acknowledgments to one where more than one mortgagee

right to redeem the mortgage as against the person or persons entitled to any undivided or divided part of the money or property.

Where property
divided

(4) Where such of the mortgagees or persons mentioned in this section as have given such acknowledgment are entitled to a divided part of the property comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors are entitled to redeem the same divided part of the property on payment with interest of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of the divided part of the property bears to the value of the whole of the property comprised in the mortgage. R.O. 1958, c. 66, s. 33.

FORECLOSURE OR SALE

Foreclosure or
sale

34. (1) No mortgagee or person claiming through a mortgage shall take proceedings for foreclosure or sale under a mortgage of real or personal property or to recover the property mortgaged but within ten years next after the right to take the proceedings first accrued to the mortgagee, or if the right did not accrue to the mortgagee, then within ten years after the right first accrued to a person claiming through the mortgagee. R.O. 1958, c. 66, s. 34.

Payment or
acknowledgment
by person bound
or entitled

35. (1) When any person bound or entitled to make payment of the principal money or interest secured by a mortgage of property real or personal or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings for foreclosure or sale or to take proceedings to recover the property, pays any part of such money or interest to a person entitled to receive the same, or his agent, the right to take proceedings shall be deemed to have first accrued at any not before the time at which the payment of the last of the payments, if more than one, was made, or if any acknowledgment of the nature described in section 32 was given at any time prior to the expiry of ten years from the accrual of the right to take proceedings, then at the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given. R.O. 1958, c. 66, s. 35.

PART V

AGREEMENTS FOR THE SALE OF LAND

36. (1) No purchaser of land, or any person claiming through him, shall bring any action in respect of the agreement for the sale thereof but within ten years after the right to bring the action first accrued to the purchaser, or if the right did not accrue to the purchaser, then within ten years after the right first accrued to a person claiming through the purchaser. Purchaser of land

(2) When any person bound or entitled to make payment of the purchase money, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to bring the action pays any part of the money payable under the agreement of sale to a person entitled to receive the same or his agent, or if any acknowledgment in writing of the right of the purchaser or person claiming through him to the land, or to make such payments, was given prior to the expiry of such ten years to the purchaser or person claiming through him, or to the agent of such purchaser or person, signed by the vendor or the person claiming through him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at the time at which the payment or the last of the payments, if more than one, was made, or the time at which the acknowledgment or the last of the acknowledgments, if more than one, was given. R.O. 1958, c. 66, s. 36. Purchaser's rights accrue

37. (1) No vendor of land or person claiming through him shall take proceedings for cancellation, determination or rescission of the agreement for the sale of the land, or for foreclosure or sale thereunder or to recover the land, but within ten years after the right to take the proceedings first accrued to the vendor, or if the right did not accrue to the vendor, then within ten years after the right first accrued to a person claiming through the vendor. R.O. 1958, c. 66, s. 37. Vendor of land

38. (1) When any person bound or entitled to make payment of the purchase money or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take proceedings mentioned in section 37, pays any part of the money payable under the agreement of sale to a person entitled to receive the same, or his agent, or if, at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the vendor or person claiming through him to the land or to receive the payment, Vendor's rights accrue

was given to the vendor or person claiming through him, or to the agent of such vendor or person, signed by the purchaser or the person claiming through him or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at, and not before, the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment, or last of the acknowledgments, if more than one was given. R.O. 1958, c. 66, s. 38.

PART VI

CONDITIONAL SALES OF GOODS

- 39. (1)** In this Part
- Definitions
- "buyer" (a) "buyer" means the person who buys or hires goods by a conditional sale;
- "conditional sale" (b) "conditional sale" means
- (i) 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
- (ii) 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;
- "goods" (c) "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
- "seller" (d) "seller" means the person who sells or lets to hire goods by a conditional sale. R.O. 1958, c. 66, s. 39.
- Seller's rights **40. (1)** No seller shall take proceedings for the sale of or to recover any goods the subject of a conditional sale but within ten years after the right to take the proceedings first accrued to the seller or, if the right did not accrue to the seller, then within ten years after the right accrued to a person claiming through him. R.O. 1958, c. 66, s. 40.

41. (1) When any person bound or entitled to make payment of the price, or his agent in that behalf, at any time prior to the expiry of ten years from the accrual of the right to take the proceedings pays any part of the price or interest to a person entitled to receive the same, or his agent, or if at any time prior to the expiry of such ten years, any acknowledgment in writing of the right of the seller or person claiming through him to the goods or to receive the payment was given to the seller or person claiming through him, or the agent in that behalf of either of them, then the right to take proceedings shall be deemed to have first accrued at and not before the time at which the payment or last of the payments, if more than one, was made, or the time at which the acknowledgment or last of the acknowledgments, if more than one was given. R.O. 1958, c. 66, s. 41.

When rights accrue

PART VII

GENERAL

42. (1) No person shall be deemed to have been in possession of land, within the meaning of this Ordinance, merely by reason of having made an entry thereon.

Entry not possession

(2) No continual or other claim upon or near any land shall preserve any right of making an entry or distress or bringing an action.

Claim not to preserve right

(3) The receipt of the rent payable by a tenant at will, tenant from year to year or other lessee, shall as against such lessee or any person claiming under him, subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Ordinance. R.O. 1958, c. 66, s. 42.

Receipt of rent
Receipt of profits

43. (1) At the determination of the period limited by this Ordinance, to any person for taking proceedings to recover any land, rent charge or money charged on land, the right and title of such person to the land, or rent charge or the recovery of the money out of the land shall be extinguished. R.O. 1958, c. 66, s. 43.

Expiry of right of action terminates title

44. (1) For the purpose of Parts II, III and IV, an administrator claiming the estate or interest of the deceased person of whose property he has been appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R.O. 1958, c. 66, s. 44.

Administration deemed claimant from death of deceased

Persons under disability

45. (1) When at the time at which the right to take any proceedings referred to in Part II, III or IV first accrued to any person who was under disability, such person or a person claiming through him may, notwithstanding anything in this Ordinance, take proceedings at anytime within six years after the person to whom the right first accrued first ceased to be under disability or died, whichever event first happened, except that if he died without ceasing to be under disability, no further time to take proceedings shall be allowed by reason of the disability of any other person.

Ultimate limit

(2) Notwithstanding anything in this section, no proceedings shall be taken by a person under disability at the time the right to do so first accrued to him or by any person claiming through him, but within thirty years next after that time. R.O. 1958, c. 66, s. 45.

Return to Territory

46. (1) In respect of a cause of action as to which the time for taking proceedings is limited by this Ordinance other than those mentioned in paragraphs 3(1)(a) and 3(1)(b), if a person is out of the Territory at the time a cause of action against him arises within the Territory, the person entitled to the action may bring the same within two years after the return of the first mentioned person to the Territory or within the time otherwise limited by this Ordinance for bringing the action. R.O. 1958, c. 66, s. 46.

Joint debtors within Territory not affected

47. (1) Where a person has a cause of action against joint debtors, joint contractors, joint obligors or joint covenantors, he shall not be entitled to any time within which to commence such action against such of them as were within the Territory at the time the cause of action accrued by reason only that one or more of them was at such time out of the Territory.

Joint debtors outside Territory not released by action

(2) A person having such cause of action is not barred from commencing an action against a joint debtor, joint contractor, joint obligor or joint covenantor who was out of the Territory at the time the cause of action accrued, after his return to the Territory by reason only that judgment has been already recovered against such of the joint debtors, joint contractors, joint obligors or joint covenantors as were at such time within the Territory. R.O. 1958, c. 66, s. 47.

Application of Ordinance

48. (1) This Ordinance applies to all causes of action whether the same arose before or after the coming into force of this Ordinance, but no action shall be barred merely by its operation until the expiry of six months from the 20th day of November, 1954; but all actions that would have been barred

by effluxion of time during such six months under the provisions of the law existing immediately prior to the 20th day of November, 1954, shall be barred as if such law were still existing. R.O. 1958, c. 66, s. 48.

49. (1) No right to the access and use of light or any other easement, right in gross or *profit à prendre* shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to the 20th day of November, 1954. R.O. 1958, c. 66, s. 49.

No right to use
of light by
prescription

50. (1) Nothing in this Ordinance shall be construed to interfere with any rule of equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Ordinance. R.O. 1958, c. 66, s. 50.

Refusing relief
in acquiescence

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

CHAPTER L-8

LIQUOR ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Liquor Ordinance*. Short title
1970 (1st) c. 3, s. 1.

INTERPRETATION

2. (1) In this Ordinance
- | | |
|--|---------------------|
| | Definitions |
| “analyst” means an analyst designated for the purposes of the <i>Food and Drugs Act</i> or an analyst employed by the Government of Canada or a government of a province or territory and having authority to make analysis for public purposes; | “analyst” |
| “bedroom” means a furnished and serviced bedroom regularly available for the accommodation of the travelling public; | “bedroom” |
| “beer” means any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt, hops, or any similar product in drinkable water; | “beer” |
| “Board” means the Yukon Liquor Board; | “Board” |
| “Director” means the Director of Liquor Control; | “Director” |
| “inspector” means a person appointed as an inspector under this Ordinance; | “inspector” |
| “licence” means a licence issued under this Ordinance; | “licence” |
| “licensed premises” means premises in respect of which a licence has been granted and includes any building or other place appertaining to such premises; | “licensed premises” |
| “licensee” means a person named as a licensee in a licence; | “licensee” |
| “liquor” means | “liquor” |
- (i) alcohol and alcoholic, spirituous, fermented malt or other intoxicating liquor, or a combination or mixture thereof;
 - (ii) a mixed drink part of which is fermented spirituous, vinous or otherwise intoxicating; and

- (iii) any other intoxicating drink, drinkable liquid, preparation or mixture that is fit for human consumption ;
- "package" "package" means any container, bottle, vessel or other receptacle used for holding liquor ;
- "public place" "public place" means
- (i) a place or building to which the public has access ;
 - (ii) a place of public resort ; and
 - (iii) any conveyance in a public place ;
- "residence" "residence" means
- (i) a building or part of a building that is actually and *bona fide* occupied and used by the owner, lessee or tenant solely as a private dwelling together with the lands and buildings appurtenant thereto that in fact are normally and reasonably used as part of the living accommodation ;
 - (ii) a private guest room in a hotel or motel that is actually and *bona fide* occupied as such by a guest of the hotel or motel ;
 - (iii) a camper unit, trailer or tent that is actually and *bona fide* occupied by the owner, lessee or tenant as a private dwelling together with the lands immediately appurtenant thereto that in fact are reasonably used as part of the living accommodation ; or
 - (iv) a vessel that is actually and *bona fide* used by the owner, lessee or tenant as a private dwelling ;
- "sale" "sale" in relation to liquor includes exchange, barter or traffic and the selling, supplying or distribution by any means of liquor
- (i) by any partnership or by any club whether incorporated or unincorporated, or
 - (ii) to any member of such partnership or club ;
- "spirits" "spirits" means any beverage that contains alcohol obtained by distillation, mixed with drinkable water and other substances in solution and includes brandy, rum, whisky, gin and vodka ;
- "vehicle" "vehicle" means any means of transportation by land, water or air and includes any motor car, automobile, truck, trac-

tor, aircraft, vessel, boat, launch, canoe or any other thing used in any way for transportation ;

“wine” means any liquor obtained by the fermentation of the natural sugar contents of fruit, including grapes, apples, berries or any other agricultural product containing sugar including honey and milk ;

(2) For the purpose of paragraph (1)(i), any liquor that contains more than two and one-half percent by volume at 60 degrees Fahrenheit of absolute alcohol shall be deemed to be intoxicating. 1970 (1st) c. 3, s. 2.

YUKON LIQUOR BOARD

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

(2) In the event of the absence or incapacity of a member of the Board, the Commissioner may appoint a person to take the place of that member for such period of time as he deems fit. 1970 (1st) c. 3, s. 3.

4. (1) The Commissioner shall fix (a) the remuneration to be paid to the members of the Board, and (b) travelling and living expenses to be paid to the members of the Board in connection with the performance of their duties when absent from their ordinary place of residence. 1970 (1st) c. 3, s. 4.

5. (1) The Board shall choose a member from among their number to be the Chairman thereof. 1970 (1st) c. 3, s. 5.

6. (1) No member shall be directly or indirectly interested or engaged in any business or undertaking dealing in liquor in the Territory (a) as owner, part owner, partner, member of a syndicate, shareholder, agent or employee, or (b) for his own benefit or in any capacity for some other person.

(2) No member of the Board and no person appointed pursuant to section 8 shall solicit or receive directly or indirectly any commission, remuneration or gift of any kind from a person or corporation having sold, selling or offering liquor for sale to the Director pursuant to this Ordinance, or from any applicant for a licence. 1970 (1st) c. 3, s. 6.

POWERS OF COMMISSIONER

- 7. (1)** The Commissioner may
- (a) establish and operate liquor stores and warehouses;
 - (b) fix the price at which the various classes, varieties and brands of liquor may be sold at liquor stores;
 - (c) prescribe the nature of seals to be used on packages of liquor purchased and kept for sale under this Ordinance;
 - (d) control the advertising of liquor; and
 - (e) issue licences to sell liquor under this Ordinance. 1970 (1st) c. 3, s. 7.

Appointment

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

Duties and remuneration

- (2) The Commissioner may prescribe the duties of the persons appointed under subsection (1) and fix their remuneration. 1970 (1st) c. 3, s. 8.

POWERS OF DIRECTOR

Powers of Director

- 9. (1)** The Director shall, under the direction of the Commissioner, administer this Ordinance and supervise the employees of the Department of Liquor Control.
- (2) Subject to the Commissioner, the Director may
- (a) determine the nature, form and capacity of the packages to be used for containing liquor kept for sale and sold under this Ordinance;
 - (b) determine the classes, varieties and brands of liquor to be kept for sale in liquor stores;
 - (c) purchase, have in his possession and under his control for sale and sell liquor;
 - (d) control the possession, sale, consumption, transportation and delivery of liquor in accordance with the provisions of this Ordinance;
 - (e) provide for the keeping in and delivery of liquor to or from any liquor store or warehouse established under this Ordinance, and procuring of all furniture, fixtures and supplies;

- (f) fix the days and hours at which any liquor store shall be kept open for the sale of liquor;
- (g) issue and distribute price lists showing the price fixed by the Commissioner to be paid for each class, variety or brand of liquor kept for sale in liquor stores; and
- (h) fix the days and hours where, and the manner, method and means by which liquor may be delivered or may be lawfully conveyed or carried and fix the charges and method of payment for delivery or sale of liquor. 1970 (1st) c. 3, s. 9.

DUTIES OF VENDOR

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

(2) The vendor, under the supervision of the Director, is responsible for the proper observance of this Ordinance and the regulations insofar as they relate to the conduct of the liquor store and the sale of liquor thereat. 1970 (1st) c. 3, s. 10.

GENERAL

11. (1) The whole amount of all moneys derived from the sale of liquor by vendors shall, as directed by the Commissioner, be deposited to the credit of the Yukon Consolidated Revenue Fund in a special account designated as the "Liquor Account". 1970 (1st) c. 3, s. 11. Liquor Account

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

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

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

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

- (a) the Territorial Treasurer, or in lieu thereof, by an officer appointed by the Commissioner, and
- (b) the Commissioner, or an officer appointed by him other than the officer appointed to act in lieu of the Territorial Treasurer. 1970 (1st) c. 3, s. 12.

Inspection of records

13. (1) The premises, stocks and records under the control of the Director may be inspected monthly by an inspector designated by the Commissioner and they shall be at all times subject to examination by the Comptroller of the Treasury of Canada and the Auditor General of Canada. 1970 (1st) c. 3, s. 13.

Transfer of moneys to Y.C.R.F

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

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

(3) All transfers of funds from the Liquor Account to the General Account in the Yukon Consolidated Revenue Fund shall be at the disposal of the Commissioner. 1970 (1st) c. 3, s. 14.

LIQUOR SURCHARGE

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

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

(2) Once each month the Director shall give to the Territorial Treasurer a statement showing the type and number of bottles of liquor upon which surcharge was collected in respect of each liquor store during the next preceding month, and the Territorial Treasurer shall deposit the surcharge so collected to the credit of the Yukon Consolidated Revenue Fund. 1970 (1st) c. 3, s. 15.

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

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

(3) Where a suspension is ordered pursuant to subsection (1) the suspension may be terminated before the expiration of the twelve-month period by a further order of the Commissioner. 1970 (1st) c. 3, s. 16.

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

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

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

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

Hearing

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

Powers of Board

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

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

Counsel

(8) The Commissioner and the licensee may be represented by agent or counsel.

Appeal to Court

(9) Any party aggrieved by a recommendation of the Board may appeal to the Court. 1970 (1st) c. 3, s. 17.

LICENCES

Oaths

18. (1) Every member of the Board and every official authorized by the Commissioner to issue licences under this Ordinance may administer any oath and take and receive any affidavit or declaration required under this Ordinance or the regulations. 1970 (1st) c. 3, s. 18.

Orders, notices, etc.

19. (1) Written notices, orders, directions and recommendations of the Board may be signed by the Chairman or other member of the Board or any person authorized to do so by the Chairman. 1970 (1st) c. 3, s. 19.

Expiration of licence

20. (1) Every licence becomes effective and expires on the respective dates stated therein. 1970 (1st) c. 3, s. 20.

Delivery of forfeited liquor

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

Director shall purchase liquor

(2) Where the liquor delivered to the Director pursuant to subsection (1) is suitable for re-sale by the Director and has

been lawfully acquired by the holder of the licence, the Director shall refund the cost of that liquor to the holder.

(3) Any liquor delivered to the Director pursuant to subsection (1) that is not purchased by the Director shall be forfeited to the Commissioner to be destroyed or otherwise disposed of by the Director. 1970 (1st) c. 3, s. 21. Liquor to be destroyed

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

- (1) Tavern Licence
- (2) Cocktail Lounge Licence
- (3) Dining-room Licence
- (4) Restaurant Licence
- (5) Canteen Licence
- (6) Train, Ship or Aircraft Licence
- (7) Off Licence
- (8) Special Licence
- (9) Club Beer Licence
- (10) Club General Licence
- (11) Brewer's Licence
- (12) Brewer's Retail Licence 1970 (1st) c. 3, s. 22.

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

(2) Except as provided in this Ordinance, no person may sell or keep for sale liquor without a licence. 1970 (1st) c. 3, s. 23. No one to sell liquor without licence

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

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

- (e) such other requirements as the Commissioner may prescribe; and
- (f) the prescribed fee.

(2) For the purpose of considering an application for a licence under subsection (1), the Commissioner or the Board may cause an inspection to be made of the premises and any other investigation the Commissioner or the Board thinks necessary. 1970 (1st) c. 3, s. 24.

Public notice

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

(2) Proof of publication of the advertisement shall be filed by the applicant with the Director prior to the hearing of the application. 1970 (1st) c. 3, s. 25.

OBJECTION AND HEARING

Referred to Board

26. (1) Upon receipt of an application for a new licence the Commissioner shall refer the application to the Board for a recommendation and shall forward to the Board any relevant material or objections which may be received. 1970 (1st) c. 3, s. 26.

Consideration

27. (1) Upon receipt of the request for a recommendation, the Chairman shall call a meeting of the Board and forthwith proceed to consider the matter. 1970 (1st) c. 3, s. 27.

Objections

28. (1) Any person may object to the granting of a licence by filing his objection together with the reasons therefor in writing with the Commissioner not later than the fifth day after the latest publication of the advertisement referred to in section 25 and serving a copy thereof by registered mail upon the applicant. 1970 (1st) c. 3, s. 28.

Recommendations

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

Saving

(2) Where the Board recommends that the application for a licence should be granted with conditions it shall give the

applicant an opportunity to make representations concerning the conditions. 1970 (1st) c. 3, s. 29.

30. (1) Where any objection to the application has been made pursuant to section 28 the Board shall fix a day at least seven days after the last day of publication referred to in section 25 for hearing representations on behalf of the applicant and the Director and on behalf of the person or persons who have filed an objection pursuant to section 28. 1970 (1st) c. 3, s. 30. Hearing

31. (1) The Board shall meet on the day fixed for the hearing to consider the application and the objections and shall decide whether to recommend to the Commissioner that the licence be granted or not and if granted the terms and conditions of the grant. 1970 (1st) c. 3, s. 31. Decision of Board

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

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

(3) The Board's decision shall be passed on a majority vote of the Chairman and members present at the hearing. 1970 (1st) c. 3, s. 32.

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

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

(3) Where the provisional recommendation of the Board is that the application should be granted the applicant may be granted a licence if within two years of the making of the provisional recommendation he completes a premises in accordance with the plans and specifications submitted to the Conditions

Board with his application and forwards to the Director the certificates of the Fire Marshal, Health Inspector, Building Inspector and an inspector that the premises have been so constructed and that all requirements and conditions for the granting of the licence have been met and complied with.

(4) Where the applicant does not comply with subsection (3) he may make a fresh application. 1970 (1st) c. 3, s. 33.

Renewal by Director

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

Objection to renewal

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

Referral to Board

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

Hearing

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

Notice

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

Appearance

(6) Any person may appear at the hearing of the objection to the renewal of the licence on filing with the Board his objection and written reasons therefor not less than two days before the hearing. 1970 (1st) c. 3, s. 34.

Saving

35. (1) The provisions of Section 29 shall not apply to applications for renewal of a licence unless so ordered by the Board or the Director. 1970 (1st) c. 3, s. 35.

APPEAL

Appeal to Court

36. (1) An appeal shall lie to the Court from any decision or recommendation of the Board. 1970 (1st) c. 3, s. 36.

TAVERN LICENCES

Tavern licence

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

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

(3) A tavern may be open for the sale of beer, ale and cider during any continuous period not exceeding fourteen hours commencing on any day not earlier than nine o'clock in the forenoon and ending not later than two o'clock in the forenoon of the following day. 1970 (1st) c. 3, s. 37; 1971 (1st) c. 27, s. 1. Hours

COCKTAIL LOUNGE LICENCE

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

(2) A cocktail lounge licence shall not be issued unless the licensed premises contain a room set aside, equipped with facilities approved by the Commissioner, for the sale of liquor, fruit juices and soft drinks, separately or in combination.

(3) A cocktail lounge may be open for the sale of liquor during any continuous period not exceeding fourteen hours commencing on any day not earlier than nine o'clock in the forenoon and ending not later than two o'clock in the forenoon of the following day. 1970 (1st) c. 3, s. 38; 1971 (1st) c. 27, s. 2. Hours

CONDITIONS

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

(2) It shall be a condition of every tavern and cocktail lounge licence that adequate facilities for providing food to customers of the licenced premises when the premises are open for the sale of liquor. 1970 (1st) c. 3, s. 39.

DINING-ROOM LICENCE

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

- (2) A dining-room licence shall not be issued or held unless food is prepared and served on the premises.
- Equipment (3) In every dining-room
- (a) the tables shall be covered with tablecloths or other equivalent suitable covering or surfacing;
 - (b) an adequate supply of flatware, china and other table service shall be available and used; and
 - (c) meals, for which adequate menus shall be provided, shall be served at regular breakfast, luncheon, dinner or supper hours to patrons of such dining room. 1971 (1st) c. 27, s. 3.
- (4) Wine may be sold by the bottle, half-bottle, or carafe.
- Hours (5) A dining-room may be open for the sale of liquor between the hours of 10:00 o'clock in the forenoon of any day until 2:00 o'clock in the forenoon of the following day. 1970 (1st) c. 3, s. 40; 1971 (1st) c. 27, s. 3.

RESTAURANT LICENCE

- Restaurant **41.** (1) A restaurant licence shall entitle the licensee to sell beer and table wine on the licenced premises.
- (2) Wine may be sold by the bottle, half-bottle or carafe.
- Prohibition (3) In a licensed restaurant beer may be served only to a person having a meal therein while seated at a table or food counter.
- Hours (4) A restaurant may be open for the sale of beer between the hours of 10:00 o'clock in the forenoon of any day until 2:00 o'clock in the forenoon of the following day. 1970 (1st) c. 3, s. 41.

CANTEEN AND MESSES

- Canteen licences **42.** (1) The Commissioner may, subject to this Ordinance, grant to officers commanding units of the Active or Reserve Forces in Canada in the Territory a beer licence in respect of a canteen or a liquor licence in respect of a mess.
- (2) A beer licence in respect of a canteen may, subject to this Ordinance, be granted to
- (a) a mining, construction or other corporation, or
 - (b) a department of the Government of Canada or Government of the Territory.

(3) A licence issued under subsection (1) and (2) shall designate the premises in respect of which the licence was granted and no liquor may be sold or consumed under the authority of the licence at a place other than such premises and no liquor may be sold or consumed in such premises except on the days and within the hours endorsed on the licence. 1970 (1st) c. 3, s. 42.

TRAIN, SHIP OR AIRCRAFT LICENCE

43. (1) The holder of a train, ship or aircraft licence may sell liquor on a train, ship or aircraft while the train, ship or aircraft is in transit on a trip, the main purpose of which is the transporting of passengers from one point to another point. 1970 (1st) c. 3, s. 43.

Train, ship or aircraft licence

OFF-LICENCES

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

Off-licences

(2) The Commissioner may issue a licence allowing the retail sale of beer subject to the regulations in any licensed premises for off-premises consumption during the periods when the premises are not permitted to sell beer for consumption on the premises. 1970 (1st) c. 3, s. 44.

SPECIAL LICENCE

45. (1) Notwithstanding any other provision of this Ordinance the Commissioner may in his discretion grant a licence for the sale of liquor under circumstances not otherwise provided for in this Ordinance. 1970 (1st) c. 3, s. 45.

Special

CLUBS

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

Club beer licence

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

Club general licence

(3) A club may sell liquor during a continuous period of fourteen hours ending not later than two o'clock in the forenoon of any day. 1970 (1st) c. 3, s. 46; 1971 (1st) c. 27, s. 4.

Hours

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

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

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

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

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

Register of visitors (5) Every club licensee shall keep a visitor's register in which shall be entered the name and address of each guest on the club premises, the name of the member by whom the guest was introduced and the time and date of admission. 1970 (1st) c. 3, s. 47.

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

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

(3) No liquor shall be sold, served or consumed on the premises of any club or other organization, whether incorporated or not, unless such club or organization is the holder of a Club Licence or a permit under this Ordinance. 1970 (1st) c. 3, s. 48.

Prohibition

49. (1) Notwithstanding any other section a licensed premises may remain open for the purposes stated on the licence from 9:00 o'clock of the afternoon of the thirty-first day of December until 3:00 o'clock in the forenoon of the first day of January. 1970 (1st) c. 3, s. 49.

New Year's Eve

PERMITS

50. (1) Upon a receipt by a vendor of an application in prescribed form accompanied by the prescribed fee by

Reception and special occasion permits

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

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

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

Conditions of permit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(17) A special occasion permit may not be issued

(a) in respect of more than five days in succession;

(b) to any organization for more than twenty-six days in any one calendar year; or

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

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

(19) An inspector may suspend a permit issued pursuant to this section for disorderly conduct on the premises in respect of which the permit was issued. 1970 (1st) c. 3, s. 50.

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

(2) A person to whom a home-made wine permit is issued may make and have in his own residence home-made wine if the total amount of home-made wine in that residence does not at any time exceed twenty-five gallons for that person and twenty-five gallons for each member of his family. 1970 (1st) c. 3, s. 51.

INTERIM LICENCES

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

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

(3) When a licence becomes void through the death of the licensee, the Commissioner, pending the consideration of the application for the new licence, may issue to the personal representative of the deceased licensee an interim licence for such period additional to the two months provided in subsection (1) as the Commissioner may in writing permit additional to the two months provided. 1970 (1st) c. 3, s. 52. Extension

GENERAL

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

(2) Where a licensee dies or sells or otherwise assigns his business or becomes dispossessed of it by bankruptcy or by Death of licensee

operation of law, then, subject to subsection 52(3), the licence *ipso facto* becomes void and shall be forfeited. 1970 (1st) c. 3, s. 53.

Minors **54.** (1) No licence authorizing the sale of liquor may be issued to a minor. 1970 (1st) c. 3, s. 54.

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

**Where separate
licences required** (2) Where a corporation or club has more than one place of operation, a separate licence is required for each place of operation. 1970 (1st) c. 3, s. 55.

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

(2) No licence shall be transferrable except on the written authorization of the Director and subject to such conditions as the Director may impose. 1970 (1st) c. 3, s. 56.

Conditions **57.** (1) No licence in respect of a tavern, cocktail lounge, dining-room, restaurant or club shall be granted to or held by any person unless.

- (a) he is a fit person to keep and operate the kind of premises in respect of which a licence is sought;
- (b) he is the true owner or the lessee having a written lease for not less than one year of the premises; and
- (c) the premises in respect of which he applies for a licence conform to the requirements of all laws relating thereto, are constructed so as to be sanitary and in general suitable for the carrying on of the business in a reputable way and have been inspected and approved as such by an inspector. 1970 (1st) c. 3, s. 57.

Manager **58.** (1) Where any licensee is not in personal day to day control of the licensed premises he shall notify the Director from time to time the name of the person who is in day to day control and managing the licensed premises together with the terms of any contract arrangement between the parties and such person's name shall be endorsed on the licence. 1970 (1st) c. 3, s. 58.

59. (1) Where any licence under this Ordinance is issued to a corporation anything required by this Ordinance to be done by any person as licensee, whether before or after the granting of a licence, may be done in name of the corporation by the officer or agent of the corporation in charge of the particular premises for which the licence is to be or has been granted. 1970 (1st) c. 3, s. 59.

Where licensee a corporation

60. (1) No licence shall be granted to or for the benefit of a person who is appointed under section 8 and no licence shall be granted in respect of any premises the owner or part owner of which, or of any interest therein, is such an appointee; and every person who knowingly recommends the issue, or is a party to the issue, of a licence in any such case commits an offence. 1970 (1st) c. 3, s. 60.

Public servants

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

Number of bedrooms

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

(3) In any place a cocktail lounge licence may be renewed where a hotel contains at least fifteen bedrooms if it was licensed prior to the 31st day of March, 1965, or it contains twenty bedrooms if it was licensed prior to the 31st day of December, 1969.

Existing licences

(4) Where a hotel was licensed prior to the 31st day of March, 1965, a tavern licence may be renewed if the hotel contains in the case of a hotel in the City of Whitehorse not less than ten bedrooms and in any other place not less than five bedrooms. 1970 (1st) c. 3, s. 61.

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

Bi-annual review

(2) Where the Board makes a recommendation pursuant to subsection (1) it shall be a condition of any licence renewed after such recommendation that the required number of bedrooms be constructed of a standard acceptable to the Board

New bedrooms

within a period of not less than two years from the next renewal of the licence. 1970 (1st) c. 3, s. 62.

Clearance of premises

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

Lighting of premises

(2) A cocktail lounge or tavern shall remain lighted until all persons other than those authorized by subsection (1) to remain have left the premises. 1970 (1st) c. 3, s. 63.

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

(2) Regulations made under this Ordinance may define guest and regulate the conditions of room service. 1970 (1st) c. 3, s. 64.

Prohibition

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

(2) The Commissioner shall in every licence granted specify the part of the premises to which the sale, serving and consumption of liquor is restricted. 1970 (1st) c. 3, s. 65.

Conduct of licensed premises

66. (1) No licensee of or person employed in any licensed premises shall permit

- (a) any gambling, riotous, quarrelsome, violent or disorderly conduct to take place therein;
- (b) any slot machine or any device used for gambling to be placed, kept or maintained therein; or
- (c) any person in a drunken or intoxicated condition to enter, be or remain therein. 1970 (1st) c. 3, s. 66.

Signs and public notices

67. (1) Every licensee shall post his licence and keep it posted in a prominent position in a part of his licensed premises where liquor is permitted to be sold and shall post, in the licensed premises or at the entrance thereto, any extracts from this Ordinance, signs and notices as the Com-

mission may require or permit but shall not post any other signs or notices. 1970 (1st) c. 3, s. 67.

68. (1) A licensee of a tavern or a cocktail lounge may sell, during the periods when liquor is permitted to be sold, beer for consumption off the premises to any person entitled to purchase liquor at a liquor store. 1970 (1st) c. 3, s. 68.

Sale of beer for
consumption off
premises

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

Consumption or
liquor off
premises

(2) Proof of the removal of any liquor from that part of the licensed premises where liquor is permitted to be sold is *prima facie* proof of the sale of liquor by the licensee contrary to this Ordinance. 1970 (1st) c. 3, s. 69.

70. (1) A person who is entitled to possess or consume liquor may lawfully have or keep

Unlawful
possession of
liquor

(a) not more than forty ounces of liquor if the liquor was imported into Canada under an authority issued by or with the permission of a Canadian customs officer, or

(b) not more than twenty-five ounces of spirits or thirty-one ounces of wine or not more than twelve pints of beer if the liquor was purchased from a liquor board, commission or similar body in another part of Canada. 1970 (1st) c. 3, s. 70.

71. (1) No person authorized by this Ordinance to sell liquor shall sell liquor in any other place or at any other time or in any other quantities or otherwise than as authorized by this Ordinance. 1967 (1st) c. 3, s. 71.

Sale by author-
ized persons

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

Sale or delivery
of liquor

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

(3) Except as authorized by this Ordinance, no person shall by himself, his clerk, employee, servant or agent, send or cause to be sent to bring or carry, or cause to be brought or

carried any package containing liquor from any person or place in the Territory to

- (a) any person who may not lawfully purchase and consume liquor, or
- (b) any place where liquor may not be lawfully kept. 1970 (1st) c. 3, s. 72.

Unlawful purchase of liquor

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

(2) No person who purchases liquor shall drink liquor or cause anyone to drink or allow liquor to be drunk upon the premises where it is purchased except in the case of liquor lawfully purchased for consumption in premises wherein the consumption of liquor is permitted. 1970 (1st) c. 3, s. 73.

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

(2) Subsection (1) does not apply to a person who innocently uses or consumes liquor not so purchased. 1970 (1st) c. 3, s. 74.

Powers of inspector

75. (1) An inspector may enter and inspect any premises licensed under the provisions of this Ordinance.

(2) An inspector may issue an order to suspend a licence issued pursuant to this Ordinance if, in his opinion,

- (a) a violation of this Ordinance or Regulations made pursuant to this Ordinance has been committed on the licensed premises;
- (b) unsanitary conditions exist in the licensed premises; or
- (c) the owner or operator of the licensed premises permits or encourages excessive drinking on the premises.

Time of suspension

(3) Suspension of a licence pursuant to this section shall not be effective until a copy of the order of suspension signed by the inspector is either personally served on the licensee or posted in some prominent place on the licensed premises.

Service of order

(4) Where an order of suspension is posted in the licensed premises pursuant to subsection (3), a copy thereof shall be sent by registered mail to the licensee at his latest known address.

Effect of suspension

(5) Except as provided by this section, where a licence is suspended pursuant to this section, all rights and privileges

conferred under this Ordinance on the holder thereof are forthwith suspended.

(6) An order of suspension made by an inspector shall be for a period not exceeding fourteen days but this period may be extended by order of the Board for such period as it sees fit. Period

(7) Notwithstanding subsection (5), where a licence is suspended pursuant to this section, the licensee may appeal to the Commissioner whereupon the provisions of subsections 17 (3) to 17(9) shall apply *mutatis mutandis*. Appeal

(8) No person shall obstruct an inspector in the execution of his duties under this Ordinance. 1970 (1st) c. 3, s. 75; 1971 (1st) c. 27, s. 5. Obstruction

76. (1) Except as permitted by this Ordinance or the regulations, no person within the Territory shall Unlawful soliciting and display

(a) exhibit or display or permit to be exhibited or displayed without the approval of the Commissioner any sign or poster containing the words "bar", "barroom", "saloon", "tavern", "cocktail lounge", "beer", "spirits", or "liquors" or words of like import, or

(b) exhibit or display or permit to be exhibited or displayed any advertisement or notice of or concerning liquor by an electric or illuminated sign, contrivance or device, or on any hoarding, signboard, billboard or other place in public view or by any of the means aforesaid, advertise any liquor. 1970 (1st) c. 3, s. 76.

EXEMPTIONS

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

(2) The burden of proof that the consumption, supplying and administering of liquor was for medicinal purposes, is upon the person who consumed, supplied or administered it, and a justice who tries a case may draw inferences of fact from the frequency with which the liquor is consumed, supplied or administered, and from the amount of liquor so used, and from the circumstances under which it is used. 1970 (1st) c. 3, s. 77.

78. (1) Notwithstanding anything in this Ordinance, any person may sell, purchase, have in his possession or consume Idem

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

and may purchase, have in his possession or consume any alcohol for any *bona fide* industrial or scientific purpose. 1970 (1st) c. 3, s. 78.

Idem

79. (1) Where a toilet or culinary product, perfume, lotion or flavouring extract or essence contains alcohol and also contains an ingredient or medication that makes it unsuitable as a beverage, a druggist or other person who manufactures or deals in the product may purchase or sell the product and any other person may purchase or use it for any purpose other than as a beverage, but where the justice hearing a complaint respecting selling, buying or consuming such product is of the opinion that an unreasonable quantity of any such product, having regard to the purposes for which the same was legitimately manufactured, was sold or otherwise disposed of to any person or persons either at one time or at intervals and proof is also given that the product so sold or disposed of was used for beverage purposes by any person, the person selling or otherwise disposing of the same may be convicted of selling liquor contrary to this Ordinance and any person who obtains or consumes for beverage purposes any of the products mentioned in this section commits an offence. 1970 (1st) c. 3, s. 79.

MISCELLANEOUS

Powers of justice

80. (1) Where by any provision of this Ordinance, power is given to a justice respecting any matter, thing or person and by the same or any other provision, further or other power is given the Commissioner respecting the same matter, thing or person, the latter power shall be in addition to and not in substitution for the former. 1970 (1st) c. 3, s. 80.

PROHIBITION

Recommendation by magistrate or justice

81. (1) A magistrate or justice trying an alleged violation of this Ordinance may recommend to the Commissioner the suspension or cancellation of any licence granted for the sale of liquor.

(2) Where a recommendation is made by a magistrate or justice under this section the Commissioner may cancel or suspend the licence. 1970 (1st) c. 3, s. 81. Licence cancelled

82. (1) No person shall have or keep in his possession any liquor unless purchased in accordance with this Ordinance. 1970 (1st) c. 3, s. 82. Unlawful possession of liquor

83. (1) Persons under nineteen years of age
 (a) Except as provided under this section, no person under the age of nineteen years shall consume, purchase or attempt to purchase or otherwise obtain liquor. Minors prohibited
 (b) A person under the age of nineteen years may in a private residence, club, licensed dining room, restaurant or at a reception, consume liquor provided by or with the consent of a parent, grandparent or legal guardian while accompanied by such parent, grandparent or legal guardian. Exception

(2) No person other than a parent, grandparent or legal guardian of a person under the age of nineteen years shall give or otherwise supply to that person liquor except for medicinal or sacramental purposes. Medicinal purposes

(3) No person under the age of nineteen years shall enter, be in or remain in any tavern or cocktail lounge. Prohibition

(4) No liquor shall be sold or supplied to a person apparently under the age of nineteen years unless that person furnishes proof on demand that he is nineteen years of age or over. Person apparently under age

(5) Where a person cannot or refuses to furnish proof as required by subsection (4), he shall immediately leave a liquor store or licensed premises upon being requested to do so. 1970 (1st) c. 3, s. 83; 1971 (1st) c. 27, s. 6. Person to leave premises

84. (1) No person shall be in an intoxicated condition in a liquor store or licensed premises. Intoxicated condition

(2) No person shall be in an intoxicated condition in a public place. Public drunkenness

(3) No prosecution shall be taken against any person pursuant to subsection (2) of this section except on the written consent of the Commissioner or an officer authorized by him in that behalf. 1970 (1st) c. 3, s. 84. Leave to prosecute

Holding intoxicated person without charge

85. (1) When a peace officer finds a person who, in his opinion, is in an intoxicated condition in a public place, the peace officer may, instead of charging the person under this Ordinance, take the person into custody to be dealt with in accordance with this section.

Release

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

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

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

Time limit

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

No action lies

(4) No action lies against a peace officer or other person for anything done in good faith without negligence with respect to the apprehension, custody or release of a person pursuant to this section. 1970 (1st) c. 3, s. 85.

Sale to intoxicated person

86. (1) No person shall sell or supply liquor to a person who is or appears to be intoxicated. 1970 (1st) c. 3, s. 86.

Offer of remuneration prohibited

87. (1) No person selling or offering for sale to or purchasing liquor from the Director shall either directly or indirectly

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

(b) make any gift,

to a member of the Board or a person appointed pursuant to section 8 or to anyone on behalf of such person. 1970 (1st) c. 3, s. 87.

PENALTY

Offence to violate Ordinance or regulations

88. (1) Every person who refuses or neglects to obey an order of the Board or who contravenes any provision of this Ordinance or the regulations commits an offence. 1970 (1st) c. 3, s. 88.

General penalty

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

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

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

- (a) for a first offence to a fine of not more than five thousand dollars, and
- (b) for each subsequent offence to a fine of not more than ten thousand dollars. 1970 (1st) c. 3, s. 89.

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

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

(2) Nothing in this section relieves the corporation or the person who actually committed the offence from liability therefor. 1970 (1st) c. 3, s. 90. Liability of corporation

91. (1) Where an offence under this Ordinance or the regulations is committed by an employee of a person holding a licence under this Ordinance, that person shall *prima facie* be deemed to be a party to the offence. 1970 (1st) c. 3, s. 91. Liability of employer

92. (1) In a prosecution under this Ordinance or the regulations it is sufficient to state the sale, keeping for sale, disposal, having, keeping, giving, purchasing or consuming of liquor without stating the name, kind of liquor, the price thereof or the consideration therefor. 1970 (1st) c. 3, s. 92. Description of offence

93. (1) In any proceedings under this Ordinance a certificate purporting to be signed by an analyst stating that he has performed a chemical analysis on any liquor, or other fluid preparation, compound or substance and the results thereof, when produced in any court or before any justice, is *prima facie* proof of the facts stated in the certificate without proof of the signature or the official character of the person by whom it purports to be signed. Certificate of analyst

- Notice (2) Subsection (1) does not apply in any proceedings unless,
- (a) at least seven days' notice in writing is given to the accused that it is intended to tender the certificate of an analyst in evidence, or
 - (b) the accused, his agent or counsel have consented to the production in evidence of the certificate of an analyst without such notice. 1970 (1st) c. 3, s. 93.

- Deposition of witness **94.** (1) In a prosecution under this Ordinance or the regulations for the sale or keeping for sale or other disposal of liquor or the having, keeping, giving, purchasing or consuming of liquor it is not necessary that a witness should depose to
- (a) the precise description or quantity of the liquor sold, kept for sale, disposed of, had, kept, given, purchased or consumed, or
 - (b) the precise consideration, if any received therefor, 1970 (1st) c. 3, s. 94.

- Circumstantial evidence **95.** (1) Upon the hearing of a charge of selling or purchasing liquor or of the unlawful having or keeping of liquor contrary to any of the provisions of this Ordinance or the regulations, the court may draw inferences of fact
- (a) from the kind or quantity of liquor found in the possession of the person accused or in any building, premises, vehicle or place occupied or controlled by that person;
 - (b) from the frequency with which liquor is received by the person accused or is received at, or in or removed from any building, premises, vehicle or place occupied or controlled by the person accused;
 - (c) from the circumstances under which liquor was obtained or is kept or dealt with; and
 - (d) in the case of a preparation or substance legitimately manufactured for other than beverage purposes, from the quantity of the preparation or substance sold or purchased by or in the possession of the person accused. 1970 (1st) c. 3, s. 95.

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

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

(3) Proof of consumption or possession of liquor by a person under the age of nineteen years is *prima facie* evidence that such liquor has been consumed or obtained contrary to the provisions of section 83. 1970 (1st) c. 3, s. 96; 1971 (1st) c. 27, s. 7. Presumption

97. (1) In a prosecution under this Ordinance or the regulations, the production of a certificate or report signed and sworn or purporting to be signed and sworn by a member of the Board or the Director is evidence of the facts stated therein and of the authority of the person giving or making such certificate or report without proof of his appointment or signature. 1970 (1st) c. 3, s. 97. Certificate of Board

SEARCH AND SEIZURE

98. (1) A peace officer may arrest without warrant a person whom he finds committing an offence against this Ordinance or the regulations. 1970 (1st) c. 3, s. 98. Arrest without warrant

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

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

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

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

- Offence (4) Any person who refuses to admit or attempts to obstruct the entry of a peace officer for the purpose of this section commits an offence.
- Search of female (5) Where a female is suspected of an offence under this Ordinance or the regulations, a peace officer shall, if he thinks it advisable to search such female, employ a woman to make such search, and the woman so employed has all the powers, privileges and immunities of a peace officer for that purpose. 1970 (1st) c. 3, s. 99.
- Seizure **100.** (1) Where a peace officer finds liquor that is had or kept contrary to this Ordinance or the regulations, he may forthwith seize the liquor. 1970 (1st) c. 3, s. 100.
- Report of seizure **101.** (1) Where liquor is seized by a peace officer he shall forthwith make an inventory thereof and a report in writing of the seizure to the Director. 1970 (1st) c. 3, s. 101.
- Person found in searched premises **102.** (1) Where a person is found in or around buildings or premises which are being searched pursuant to section 98, he shall on request of a peace officer report to him his correct name and address. 1970 (1st) c. 3, s. 102.

REGULATIONS

- Regulations **103.** (1) The Commissioner may make regulations or orders
- (a) for controlling and conducting liquor stores, including the duties and bonding of the employees at the liquor stores, the manner in which and under what restrictions as to quantity or otherwise, liquor may be sold and delivered at such stores;
 - (b) respecting the terms and conditions and the form of licences and permits and applications therefor, and the nature of the proof required to be furnished for replacing licences and permits in place of licences and permits lost or destroyed;
 - (c) respecting the operation of licensed premises;
 - (d) respecting the number of licences that may be granted in the Territory;
 - (e) respecting the disposal of liquor and packages that have been forfeited under this Ordinance. 1970 (1st) c. 3, s. 103.

CHAPTER L-9

LOCAL IMPROVEMENT DISTRICT ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Local Improvement District Ordinance*. 1965 (2nd) c. 1., s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“district” means an area of the Territory established as a local improvement district under this Ordinance; “district”

“fiscal year” means the twelve months ending the 31st day of March; “fiscal year”

“land” includes lands, tenements, hereditaments and buildings; “land”

“local improvements” means the supply of water, electricity or gas, and the provision of sewage and garbage collection services and other services normally found in organized communities; “local improvements”

“occupant” includes the resident occupier of land or, if there is no resident occupier, the owner or leaseholder thereof; “occupant”

“taxpayer” means a person whose name appears on the Tax Roll pursuant to the *Taxation Ordinance*, in respect of property within a district or a proposed district; “taxpayer”

“trustee” means any person elected or appointed a trustee of a district under this Ordinance. 1965 (2nd) c. 1, s. 2. “trustee”

ESTABLISHMENT OF DISTRICTS

3. (1) Whenever the Commissioner is satisfied that conditions in any area of the Territory, not contained in a municipality, warrant participation by taxpayers and occupants of land in that area in the operation of local improvements therein, he may by order establish a local improvement district. Establishment of District

(2) The Commissioner shall give notice of his intention to establish a district Notice

- (a) by registered mail to all taxpayers of the proposed district; and
- (b) in at least one issue of the *Yukon Gazette*.

Appeal

(3) Any taxpayer of the proposed district may, within three weeks from the mailing of the notice provided for by subsection (2) or the publication of the notice in the *Yukon Gazette*, whichever occurs later, appeal in writing to the Commissioner against the establishment of the district. 1965 (2nd) c. 1, s. 3.

Contents of establishment order

4. (1) An order establishing a local improvement district shall specify

- (a) the name and boundaries of the district;
- (b) the date and location of the first annual general meeting of the district;
- (c) the name of the first three trustees appointed by the Commissioner; and
- (d) the terms of office of the first appointed trustees. 1965 (2nd) c. 1, s. 4.

Body corporate

5. (1) The taxpayers and occupants of a district established under section 3 shall be a body corporate having as its corporate name the name specified by the Commissioner in the order establishing the district.

Powers

(2) The district shall have the power to purchase, acquire and hold land for the purpose of this Ordinance. 1965 (2nd) c. 1, s. 5.

TRUSTEES

Board of Trustees

6. (1) Each district shall have a board of trustees consisting of three trustees.

Appointment of first trustees

(2) The Commissioner shall appoint the first three trustees of a district as follows:

- (a) one to hold office until the first annual general meeting of the district;
- (b) one to hold office until the second annual general meeting; and
- (c) one to hold office until the third annual general meeting.

Term of office

(3) Except for the first appointees, each trustee shall be elected to hold office for a term of three years.

(4) One trustee shall be elected at each annual general meeting. Election at general meeting

(5) Every person resident within a district who is a Canadian citizen or other British subject and has attained the age of twenty-one years and who Qualifications of trustees

(a) is a taxpayer or spouse of a taxpayer in respect of real property within the district, with an assessed value of five hundred dollars or more, and

(b) is not in arrears in the payment of his property taxes, is eligible to hold office as a trustee.

(6) Every person resident within a district who is a Canadian citizen or other British Subject and has attained the age of twenty-one years and who Qualifications of voters

(a) is a taxpayer or spouse of a taxpayer, or

(b) is an occupant or spouse of an occupant who

(i) has resided within the area for not less than six months immediately prior to the date of the election, and

(ii) is liable for payment, directly or indirectly, of a yearly rental of not less than one hundred and eighty dollars in respect of his occupancy of real property within the district,

is eligible to vote at an election of trustees.

(7) The election of trustees shall be by secret ballot. Secret ballot

(8) The procedures to be followed in the election of trustees shall be established from time to time by by-law. Election procedures

(9) A trustee is eligible to be re-elected. 1965 (2nd) c. 1, s. 6. Re-election of trustees

7. (1) Subject to this Ordinance, a corporation carrying on business within a district is eligible to vote at an election of trustees if it is a taxpayer. Certain corporation may vote

(2) A person who has attained the age of twenty-one years may vote at an election of trustees on behalf of a corporation described in subsection (1) if there has been filed with the chairman of the board of trustees not later than one month prior to such election a written authorization naming that person to be an agent of the corporation for this purpose. Voting to be by agent

(3) A person described in subsection (6) of section 6, who votes at an election of trustees as an agent of a corporation, is not disqualified from voting on his own behalf at an election of trustees. 1967 (2nd) c. 11, s. 1. Agent not disqualified from voting on his own behalf

- By-election **8. (1)** Subject to subsection (2), when the office of a trustee is vacant, the board of trustees shall within one month call a general meeting of the district for the purpose of holding an election to fill the vacancy.
- By-election at annual meeting **(2)** Where the office of a trustee becomes vacant within one month before the next annual general meeting, the election to fill the vacancy shall be held at that meeting.
- Appointment to fill vacancy **(3)** Where there is no candidate for the vacant office described in subsection (1) or, where for any other reason the vacant office is not filled by an election, the Commissioner shall appoint an individual to hold the office of trustee.
- To serve for balance of term **(4)** An individual elected or appointed to fill the vacancy described in subsection (1) shall serve for the balance of the term of the office to which he is elected or appointed.
- By-election procedures **(5)** An election to fill a vacancy in the office of a trustee shall be conducted in the same manner as the regular election of a trustee. 1965 (2nd) c. 1, s. 7.

ANNUAL GENERAL MEETING OF DISTRICT

- Annual general meeting **9. (1)** An annual general meeting in each district shall be held during the first week in April in each year.
- Board of Trustees to fix time and place **(2)** The board of trustees shall fix the time and place of each annual general meeting subsequent to the first meeting.
- Notice of meeting **(3)** The board of trustees shall give notice of the time and place of the annual general meeting
 - (a)** by posting notices in conspicuous places in the district; and
 - (b)** by advertising in three issues of a newspaper circulating in the district beginning with an issue published not more than three weeks and not less than two weeks before the time set for the meeting.
- Chairman of meeting **(4)** The chairman of the board of trustees shall be the chairman of the annual general meeting and, in the absence of the chairman, the trustees shall appoint one of their number to act as chairman of the meeting.
- Business of meeting **(5)** At the annual general meeting the board of trustees shall present a report of their activities during the past fiscal year and the meeting may pass resolutions for the guidance of the trustees. 1965 (2nd) c. 1, s. 8.

MEETINGS OF BOARD OF TRUSTEES

10. (1) The Board of Trustees shall meet openly at least once a month and no person shall be excluded from any open meeting except for improper conduct. Board of Trustees meet once a month

(2) The Board of Trustees shall hold its first meeting in each fiscal year not later than thirty days after the day on which the annual general meeting of the district was held. First Board meeting in year

(3) Two trustees shall constitute a quorum of the Board of Trustees, and a vacancy in the membership of the board does not impair the right of the remaining members to act. Quorum

(4) The Board of Trustees, at its first meeting in each year and at its first meeting after a vacancy occurs in the office of chairman, shall designate one of its members to be chairman of the board. Chairmn

(5) The Chairman may vote on any matter coming before the Board of Trustees and any question on which there is an equality of votes shall be deemed to be defeated. Voting

(6) Where the chairman is absent from any meeting of the Board of Trustees, the board shall appoint one of its members to act as chairman. Absence of chairman

(7) Adequate records shall be maintained of all business transacted during a meeting of the Board of Trustees.

(8) The Board of Trustees may from time to time Officers and salaries

(a) appoint a secretary and such other officers and employees as in their discretion they may consider necessary to operate and maintain local improvements and to keep the records of the district ; and

(b) subject to the approval of the Commissioner, fix the salaries or wages of the persons so appointed.

(9) The Board of Trustees may by resolution approve the payment of an annual allowance to each trustee that shall not exceed two hundred and fifty dollars per year. 1965 (2nd) Annual allow-
ance
c. 1, s. 9; 1970 (3rd) c. 7, s. 1.

COMMISSIONER

11. (1) The Commissioner may transfer local improvements in a district to that district. Transfer of local improvements

(2) The Commissioner may authorize the trustees of a district to operate and maintain any local improvements in Operation as agent

that district on his behalf and on such terms and conditions as he prescribes.

(3) The Commissioner shall, on request being made therefor by trustees, supply the trustees with all necessary accounting information including statements of revenues and expenditures and financial projections that the Commissioner has or can reasonably make available in respect of the district represented by the trustees. 1965 (2nd) c. 1, s. 10.

DUTIES AND POWERS OF TRUSTEES

Trustees are executive

12. (1) The Board of Trustees are the executive of a district and shall operate and maintain any local improvements in that district which are owned by the district or which they have been authorized to operate and maintain on behalf of the Commissioner. 1965 (2nd) c. 1, s. 11.

13. (1) Subject to the approval of the Commissioner, the Board of Trustees shall have power to make by-laws

- (a) adopting procedures for the election of trustees;
- (b) regulating proceedings and preserving order at the meetings of the Board of Trustees and at the annual general meeting;
- (c) providing for the construction or acquisition of any buildings or works necessary for the operation and maintenance of any local improvement in their district;
- (d) prescribing the fees and charges that shall be levied for local improvements;
- (e) providing for the collection of the fees and charges; and
- (f) adopting such procedures as are necessary to enable it to perform its functions as set forth in this Ordinance. 1965 (2nd) c. 1, s. 12.

Special general meetings

14. (1) The Board of Trustees may from time to time call special general meetings of the district.

(2) The Board of Trustees shall give notice of the time, place and purpose of the special general meeting in the manner prescribed in subsection 9(3). 1965 (2nd) c. 1, s. 13.

Board of Trustees as Advisory Council

15. (1) The Board of Trustees shall act as an advisory council and, at the request of the Commissioner, shall advise him on local improvements and other matters concerning the district. 1965 (2nd) c. 1, s. 14.

GENERAL

16. (1) The Board of Trustees may incur debts in the course of operating and maintaining local improvements that shall not exceed five thousand dollars unless otherwise authorized by the Commissioner. 1965 (2nd) c. 1, s. 15.

Debt

17. (1) The Board of Trustees shall carry insurance to the extent required by the Commissioner to cover property damage and public liability arising out of the operation of the district. 1965 (2nd) c. 1, s. 16.

Insurance

18. (1) The Commissioner may appoint an inspector of local improvement districts who shall have such powers and duties as the Commissioner may assign to him.

Inspector

(2) In the absence of any other person so appointed, the Territorial Treasurer shall be the inspector of local improvement districts. 1965 (2nd) c. 1, s. 17.

May be Territorial Treasurer

19. (1) Upon receipt of a petition signed by
(a) a majority of the persons in a district eligible to vote at an election of trustees for that district, or
(b) the inspector of local improvement districts, the Commissioner may, by order published in the *Yukon Gazette*, dissolve that district.

Petition for dissolution

(2) A petition for dissolution of a district shall provide to the satisfaction of the Commissioner for the winding-up of the corporation and for the payment and discharge of all debts and obligations of the district.

Provisions of petitions

(3) Upon the dissolution of a district all property and assets of that district shall be transferred to the Commissioner under such terms and conditions he considers necessary.

Assets of District

(4) The Commissioner may make any regulations he considers necessary for the dissolution and winding-up of a district. 1965 (2nd) c. 1, s. 18.

Regulations

CHAPTER L-10

LORD'S DAY ORDINANCE

1. This Ordinance may be cited as the *Lord's Day Ordinance*. 1962 (1st) c. 8, s. 1. Short title

2. (1) In this Ordinance

"council" means the council of any municipality as defined in this Ordinance and includes the council of any city, village or improvement area or any other municipal authority hereinafter created by or under an Ordinance of the Yukon Territory, competent to pass a by-law under this Ordinance; "council"

"electors" means all electors as defined in the Municipal Ordinance, being Chapter 1 of the Ordinances of the Yukon Territory, 1959 (Second Session); "electors"

"Municipality" means a municipality as defined in the *Municipal Ordinance*; "Municipality"

"settlement" means any area of not more than twenty-five square miles in which is located a named postal office and having a resident population in excess of 100 persons and which does not form a part of a municipality. 1962 (1st) c. 8, s. 2. "settlement"

3. (1) Where a by-law passed under this section is in force and subject to its provisions, it is lawful in the municipality or in such part or parts thereof as are specified in the by-law for any person, after 1:30 o'clock in the afternoon of the Lord's Day or during such period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day as are specified in the by-law, to provide, engage in or be present at any public game or sport that is specified in the by-law and which but for this Ordinance would be unlawful under section 6 of the *Lord's Day Act (Canada)*, or to do or engage any other person to do any work, business or labour in connection with any such public game or sport which but for this Ordinance would be unlawful under section 4 of the *Lord's Day Act (Canada)*. Sunday sports may be made lawful
R.S.C. 1952, c. 171

(2) Subject to subsection (5), the council of any municipality may pass a by-law, Implementing by-law authorized

- (a) providing that subsection (1) applies in the Municipality or specifying a part or parts of the municipality in which subsection (1) applies;
- (b) providing that subsection (1) applies after 1:30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day during which subsection (1) applies; and
- (c) specifying the public games and sports to which subsection (1) applies.

Variation in by-law authorized

(3) Any provision of a by-law under this section may differ in different parts of the municipality and in respect to different public games and sports.

Horse racing

(4) A by-law under this section shall not specify horse racing as a public game or sport.

Vote before passing of by-law

(5) No by-law under this section shall be passed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question:

“Are you in favour of public games and sports for gain after 1:30 o'clock in the afternoon of the Lord's Day to be regulated by municipal by-law under the authority of the *Lord's Day Ordinance*?”

Vote before repeal of by-law

(6) No by-law passed under this section shall be repealed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question:

“Are you in favour of the repeal of the by-law passed under the authority of the *Lord's Day Ordinance*, that regulates public games and sports for gain after 1:30 o'clock in the afternoon of the Lord's Day?” 1962 (1st) c. 8, s. 3.

Sunday movies etc., may be made lawful

4. (1) Where a by-law passed under this section is in force and subject to its provisions, it is lawful in the municipality or in such parts or parts thereof as are specified in the by-law for any person, after 1:30 o'clock in the afternoon of the Lord's Day or during such period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day as are specified in the by-law, to provide, engage in or to be present at any exhibition of moving pictures or any theatrical performance, any concert or any lecture or such of them as are specified in the by-law and which but for this Ordinance

would be unlawful under section 6 of the *Lord's Day Act (Canada)*, or to do or engage any other person to do any work, business or labour in connection with any such exhibition of moving pictures, theatrical performance, concert or lecture, as the case may be, which but for this Ordinance would be unlawful under section 4 of the *Lord's Day Act (Canada)*.

(2) Subject to subsection (4), the council of any municipality may pass a by-law, Implementing
by-law author-
ized

- (a) providing that subsection (1) applies in the municipality or specifying a part or parts of the municipality in which subsection (1) applies;
- (b) providing that subsection (1) applies after 1:30 o'clock in the afternoon of the Lord's Day or specifying the period or periods of time after 1:30 o'clock in the afternoon of the Lord's Day during which subsection (1) applies; and
- (c) specifying that subsection (1) applies to the exhibition of moving pictures, theatrical performances, concerts and lectures or any one or more of them.

(3) Any provision of a by-law under this section may differ in different parts of the municipality and in respect of the exhibition of moving pictures, theatrical performances, concerts or lectures. Variation in
by-law author-
ized

(4) No by-law under this section shall be passed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question: Vote before
passing of
by-law

"Are you in favour of moving pictures, theatrical performances, concerts and lectures (or as the case may be) for gain after 1:30 o'clock in the afternoon of the Lord's Day to be regulated by municipal by-law under the authority of the *Lord's Day Ordinance*?"

(5) The question set out in subsection (4) may be varied by deleting therefrom any one or more of the expressions "moving pictures", "theatrical performances", "concerts", or "lectures" as the council by resolution determines. Variation of
question

(6) No by-law under this section shall be repealed until the following question has been submitted to and has received the affirmative vote of a majority of the electors who vote on the question:

“Are you in favour of the repeal of the municipal by-law passed under the authority of the *Lord's Day Ordinance* that regulates moving pictures, theatrical performances, concerts and lectures (or as the case may be) for gain after 1:30 o'clock in the afternoon of the Lord's day?”

“concert” defined

(7) The expression “concert” in this section does not include a concert of an artistic and cultural nature that is governed by section 7. 1962 (1st) c. 8. s. 4.

When question may be submitted

5. (1) The council may submit any question set out in this Ordinance to the electors at any time.

Petition

(2) Upon the presentation of a petition requesting that a question under this Ordinance be submitted to the electors, signed by at least 10 percent of the electors in the municipality, the council shall before or at the next municipal election submit the question to the electors, but, if a petition is presented in the month of November or December in any year, it shall be deemed to be presented in the month of February next following.

Idem

(3) A petition mentioned in subsection (2) shall be deemed to be presented when it is lodged with the clerk of the municipality and the sufficiency of the petition shall be determined by him and his certificate as to its sufficiency is inclusive for all purposes. 1962 (1st) c. 8. s. 5.

Regulation and control

6. (1) Every by-law under this Ordinance shall provide for the regulation and control of the activities specified therein, and may provide for the regulation and control of any matter or thing in connection therewith. 1962 (1st) c. 8. s. 6.

Sunday musical concerts lawful

7. (1) It is lawful for any person after 1:30 o'clock in the afternoon of the Lord's Day to provide, engage in or be present at any concert, recital or other musical performance of an artistic and cultural nature produced by a non-profit organization at which an admission fee is charged and which but for this Ordinance would be unlawful under section 6 of the *Lord's Day Act (Canada)*, or to do or engage any other person to do any work, business or labour in connection with any such concert, recital or other musical performance which but for this Ordinance would be unlawful under section 4 of the *Lord's Day Act (Canada)*. 1962 (1st) c. 8. s. 7.

8. (1) Where a majority of persons over the age of twenty-one years, residing in a settlement, present to the Commissioner satisfactory evidence of their desire to permit in the

settlement the same activities which in the case of a municipality may be made the subject of a by-law under the provisions of this Ordinance, he may permit such activities upon terms which conform as far as possible to the terms which would govern similar activities in a municipality.

(2) The Commissioner may, in his discretion, revoke or limit the permission given under subsection (1). 1962 (1st) c. 8, s. 8.

9. (1) If and so long as the time commonly observed in a municipality in which a by-law under this Ordinance is in force or in which a concert, recital or other musical performance is produced under section 7 is one hour in advance of standard time, the times mentioned in this Ordinance or in a by-law under this Ordinance shall be reckoned in accordance with the time so commonly observed and not standard time. 1962 (1st) c. 8, s. 9.

When daylight
saving time in
effect

CHAPTER L-11

LOW COST HOUSING ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Low Cost Housing Ordinance, 1962 (1st) c. 1, s. 1.* Short title

FIRST MORTGAGE LOANS

2. (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 housing loans

(2) A person is eligible for a loan who

- (a) is the holder in fee simple of the land on which a house is to be constructed or is a lessee of such land under a lease entered into with Her Majesty in right of Canada having a term extending for not less than five years beyond the term of any loan that may be made pursuant to this section; Persons to whom loans may be made
- (b) is not a mortgagor to the Commissioner; and
- (c) satisfies the Commissioner that he is unable to obtain a loan pursuant to the provisions of the *National Housing Act, 1954.*

(3) A loan made under the authority of this section shall Conditions

- (a) not exceed twelve thousand dollars in respect of any one house;
- (b) bear interest at a rate fixed by order of the Commissioner;
- (c) be secured by a first mortgage in favour of the Commissioner upon the land on which the house is to be constructed;
- (d) be for a term not exceeding twenty-five years;
- (e) be repayable in full by equal payments of principal and interest during the term thereof or sooner at the election of the borrower; and
- (f) be subject to such other terms and conditions as the Commissioner may deem desirable. 1962 (1st) c. 1, s. 3; 1963 (1st) c. 8, s. 2 (1) (2) (3) (4); 1966 (1st) c. 7, s. 1; 1966 (2nd) c. 11, s. 1, 2; 1967 (1st) c. 14, s. 1; 1970 (2nd) c. 6, s. 1.

SECOND MORTGAGE LOANS

Commissioner
may make loans

3. (1) Subject to this Ordinance, the Commissioner may make a loan to any person described in subsection (2) to whom a loan has been made pursuant to that section to assist that person in the construction of the house in respect of which a loan was made.

(2) A loan shall not be made under the authority of this section in respect of a house for which the estimated cost of construction is in excess of fifteen thousand dollars.

Conditions

- (3) A loan made under the authority of this section shall
 - (a) not exceed one thousand dollars in respect of any house;
 - (b) bear no interest;
 - (c) be for a term not exceeding ten years;
 - (d) (i) be secured by a second mortgage in favour of the Commissioner upon the land on which the house is to be constructed; or
 - (ii) be secured by the giving of such further security as the Commissioner may require;
 - (e) be repayable in equal payments during the term thereof; and
 - (f) be subject to such other terms and conditions as the Commissioner may deem desirable.

Forgiving of
payment of
mortgage where
borrower lives in
house

(4) The Commissioner may forgive payment of the amount due under a mortgage described in paragraph (3)(d) for any year that the mortgagor continues to live in the house in respect of which the mortgage was given. 1962 (1st) c. 1, s. 4; 1963 (1st) c. 8, s. 3; 1966 (2nd) c. 11, s. 3; 1970 (2nd) c. 6, s. 2.

GENERAL

Loans to be
made from
moneys appro-
priated by
Council

4. (1) All loans made by the Commissioner under this Ordinance shall be paid out of the moneys appropriated by the Council for that purpose. 1962 (1st) c. 1, s. 5.

5. (1) The Commissioner is empowered to do every act and to exercise every power for the purpose of implementing every obligation assumed by, and enforcing every right accruing to, the Yukon Territory under this Ordinance. 1962 (1st) c. 1, s. 6.

Commissioner to
act for Territory

6. (1) The Commissioner may make regulations concerning any matter he deems necessary to carry out the provisions of this Ordinance. 1962 (1st) c. 1, s. 7.

CHAPTER M-1

MAGISTRATE'S COURT ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Magistrate's Court Ordinance*. 1971 (1st) c. 10, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

"clerk" means the Clerk of the Magistrate's Court appointed pursuant to section 13. "clerk"

"Court" or Magistrate's Court means the Magistrate's Court referred to in section 3. "Court"

"juvenile delinquent" has the same meaning as in the *Juvenile Delinquents Act*; "juvenile delinquent"

"magistrate" means a magistrate appointed pursuant to section 7 and includes a deputy magistrate and an *ex officio* magistrate. 1971 (1st) c. 10, s. 2. "magistrate"

3. (1) There shall be in and for the Territory a Magistrate's Court called the "Magistrate's Court of the Yukon Territory". 1971 (1st) c. 10, s. 3. Magistrate's Court

4. (1) The Court shall consist of such magistrates and deputy magistrates as may be appointed by the Commissioner pursuant to this Ordinance. 1971 (1st) c. 10, s. 4.

5. (1) A magistrate shall,

- (a) have jurisdiction throughout the Territory and may exercise all the powers, duties and functions that are vested in the Magistrate's Court.
- (b) exercise all the powers and perform all the duties conferred or imposed upon a police magistrate appointed under the *Yukon Act*, under and by virtue of any Ordinance or Act of the Parliament of Canada in force at the time of the coming into force of this Ordinance.
- (c) has and may exercise all the powers, duties and functions of a justice of the peace or any two justices of the peace under the *Yukon Act* or any other law or Ordinance in force in the Territory.
- (d) be *ex officio* a Justice of the Peace and a Notary Public and a Small Debts Official.

(2) The Commissioner may specially authorize a magistrate, by the terms of his appointment, to exercise the jurisdiction conferred on a Magistrate by Part XVI of the *Criminal Code* 1971 (1st) c. 10, s. 5; 1971 (3rd) c. 7, s. 1..

Civil jurisdiction

6. (1) Subject to subsection (2), the Magistrate's Court has civil jurisdiction throughout the Territory in,

- (a) actions arising out of contract, expressed or implied, and actions of debt, where the debt, demand or damages claimed do not exceed one thousand dollars;
- (b) personal actions of tort, where the damages claimed do not exceed one thousand dollars;
- (c) all actions for the recovery of personal property, including actions of replevin and for detinue, where the value of the property claimed does not exceed one thousand dollars;
- (d) interpleader proceedings
 - (i) where the person seeking relief is under liability for any debt, money or chattels to an amount or value not exceeding one thousand dollars for and in respect of which adverse claims are made by two or more persons, or
 - (ii) where the applicant is a sheriff or some other officer charged with the execution of process and claim is made to any money or chattels taken or intended to be taken in the execution, or the proceeds or value thereof, by a person other than the person against whom the process issued where the money, proceeds or value of the chattels claimed does not exceed one thousand dollars;
- (e) garnishment proceedings for the attachment of debt due, obligations and liabilities owing, payable or accruing due by a third person to a person against whom an action for a debt or liquidated demand not exceeding one thousand dollars is or is about to be commenced or against whom a judgement has been given for an amount not exceeding one thousand dollars; and
- (f) attachment proceedings for the recovery of a sum not exceeding one thousand dollars for debt or damages arising upon a contract, expressed or implied, or upon a judgment upon the personal property of a person who
 - (i) being a non-resident of the Territory, is so indebted or liable to a resident of the Territory; or
 - (ii) with intent to defeat or defraud his creditors or those who have causes of action against him,

absconds or is about to abscond from the Territory leaving personal property or to remove his personal property out of the Territory or did or is about to assign, transfer, dispose of or secrete such property or to conceal himself to avoid service of process.

(2) The Magistrate's Court shall not have civil jurisdiction in

Jurisdiction excluded in certain cases

- (a) actions in which the title to land or to an interest in land is brought in question;
- (b) actions in which the validity of any devise, bequest or limitation is disputed;
- (c) actions for malicious prosecution, false imprisonment, libel, slander, criminal conversation, seduction or breach of promise of marriage; and
- (d) actions against a justice of the peace or magistrate for anything done by him in the execution of his office. 1971 (1st) c. 10, s. 6.

MAGISTRATES

7. (1) The Commissioner may appoint such magistrates and deputy magistrates as he considers necessary for the administration of justice in the Territory.

(2) A deputy magistrate has all the powers, duties and functions of a magistrate. 1971 (1st) c. 10, s. 7.

8. (1) Every magistrate shall, upon appointment, take and subscribe before a judge 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 trusts reposed in me as a magistrate of the Magistrate's Court of 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. 10, s. 8.

Disposition of oath

9. (1) A magistrate shall not while in the Territory act as agent, solicitor or counsel in any proceedings before another magistrate or a justice of the peace.

Acting as counsel

(2) Unless otherwise authorized by the Commissioner a magistrate shall not while in the Territory carry on or practice any business, profession, trade or occupation, but shall

May not carry on business or profession

devote his time to the performance of his duties as a magistrate. 1971 (1st) c. 10, s. 9.

Removal for cause

10. (1) The Commissioner may, by order, remove a magistrate from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if,

- (a) the circumstances respecting the misbehaviour or inability are first enquired into; and
- (b) the magistrate is given a reasonable notice of the time and place for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

Inquiry

(2) For the purpose of making an inquiry under subsection (1), the Commissioner shall appoint a superior court judge who shall make the inquiry and a report thereon and he shall have all the powers of a judge of the Territorial Court to summon and enforce the attendance of any person to require such person to give evidence under oath and to produce such documents as to the judge seems requisite for the full investigation of the matters into which he is appointed to examine.

(3) The Commissioner may suspend a magistrate pending the result of an inquiry under this section.

(4) The Commissioner shall cause the order and the report referred to in this section to be laid before the Council within fifteen days after the order has been made or if the Council is not then sitting on any of the first fifteen days next thereafter, that the Council is sitting. 1971 (1st) c. 10, s. 10.

11. (1) Every magistrate shall on appointment become a member of the public service of the Territory and except as provided by this Ordinance the provisions of the *Public Service Ordinance* shall apply to him.

(2) Sections 23, 24, 25, 26, 29, 30, 33, paragraphs 34(1)(d), 34(1)(e) and 34(1)(i) and section 35 of the *Public Service Ordinance* shall not apply to a magistrate.

(3) A magistrate shall be deemed to be a person employed in a managerial or confidential capacity for the purposes of the *Yukon Public Service Staff Relations Ordinance*. 1971 (1st) c. 10, s. 11.

12. (1) Every judge or deputy judge of the Territorial Court is *ex officio* a magistrate, but the provisions of sections

7, 8, 10, 11, 18 and 31 shall not apply to him. 1971 (1st) c. 10, s. 12.

13. (1) The Commissioner may appoint a clerk of the Magistrate's Court and such other officers as he deems necessary for the due administration of justice and the dispatch of the business of the Magistrate's Court. 1971 (1st) c. 10, s. 13.

14. (1) The Magistrate's Court shall have a seal in a form prescribed by the Commissioner. 1971 (1st) c. 10, s. 14. Seal

15. (1) No action for the recovery of damages lies in respect of an order or warrant made or sentence imposed at any time, whether before or after the coming into force of this Ordinance, Damages against magistrate

(a) by a magistrate acting in the place of any other magistrate or justice who has then ceased for any reason to be a magistrate or justice,

(b) against or upon or in respect of a person who had been previously convicted by such other magistrate or justice but had not been sentenced by him ;

if the order, warrant or sentence could have been lawfully made or imposed by the magistrate or justice by whom the conviction was made.

(2) No action for the recovery of damages lies against any person in respect of an act or thing done at any time whether before or after the coming into force of this Ordinance, in the execution of any order, warrant or sentence to which subsection (1) relates, or purporting to be done in compliance with or incidental to any such order, warrant or sentence. Other person

(3) No action may be brought against a magistrate for any act done in the execution of his duty or in a matter in which he lacked or has exceeded his jurisdiction, unless it is proved that the magistrate acted maliciously and without reasonable and probable cause. Where action exceeds jurisdiction

(4) No order, verdict, or judgment or other proceeding made by the Magistrate's Court shall be quashed or vacated for want of form.

(5) The magistrate may in his discretion order that the venue of any cause or matter may be changed and that the cause or matter be heard in such place in the Yukon as he shall direct. 1971 (1st) c. 10, s. 15.

16. (1) Subject to this Ordinance, the rules of practice and procedure followed in the Territorial Court shall, *mutatis* Manner of proceeding in Magistrate's Court

mutandis, be followed in all actions and proceedings in the Magistrate's Court, other than claims that might have been brought before a Small Debts Official under the provisions of the *Judicature Ordinance*, and the provisions respecting Small Debts in that Ordinance shall, *mutatis mutandis*, be followed in all actions and proceedings in the Magistrate's Court that might have been brought before a Small Debts Official under those provisions.

Proceedings how entitled

(2) All proceedings in the Magistrate's Court shall be entitled "In the Magistrate's Court of the Yukon Territory."

Powers of magistrate

(3) Every action in the Magistrate's Court shall be tried and judgment given, and decisions, determinations, orders and decrees shall be made by a magistrate. 1971 (1st) c. 10, s. 16.

Fees

17. (1) The Commissioner may establish tariffs of fees and costs for services rendered by

- (a) clerks,
- (b) the sheriff, and
- (c) barristers and solicitors

in actions and proceedings arising in the Magistrate's Court. 1971 (1st) c. 10, s. 17.

18. (1) Every magistrate or officer appointed pursuant to this Ordinance shall keep such books and make such returns as may be prescribed. 1971 (1st) c. 10, s. 18.

19. (1) The provisions of sections 20 to 28 shall only apply in respect of civil cases. 1971 (1st) c. 10, s. 19.

Appeals

20. (1) An appeal may be taken from the final judgment of a magistrate in any civil case to a judge of the Territorial Court.

(2) An appeal from the final judgment of a judge of the Territorial Court on an appeal referred to in subsection (1), may be taken in the same manner, for the same causes and subject to the same limitations as are prescribed in the *Court of Appeal Ordinance* with reference to appeals from a judgment of a judge of the Territorial Court. 1971 (1st) c. 10, s. 20.

Notice of appeal

21. (1) Where an appeal lies from a judgment or order of a magistrate to a judge, it shall be commenced by notice of appeal without any other formal proceeding being required.

(2) On appeals, the applicant may, by the notice of appeal, appeal from the whole or any part of the judgment or order and the notice of appeal shall state whether the whole or part only of the judgment or order is complained of and if part only, specify the part, and such notice of appeal shall state the grounds on which the application is based.

What notice is to contain

(3) A notice of appeal may be amended at any time by leave of the judge before whom the appeal is brought on such terms as he deems fit. 1971 (1st) c. 10, s. 21.

Amendment

22. (1) No security for costs is required on any appeal except in cases where due to special circumstances, such security is ordered by a judge but no such order shall be made unless application therefor is made within fifteen days from the service of the notice or within such further time as the judge may order. 1971 (1st) c. 10, s. 22.

Security for costs

23. (1) A notice of appeal shall be filed in the Territorial Court and served on all parties directly affected by the appeal, and if the judge before whom the appeal is brought so directs, on all of the parties to the action or other proceedings, or on any person not a party, and the judge may, in the meantime, postpone or adjourn the hearing of the appeal upon such terms as to him seems just, and may give such judgment and make such order as might be given or made if the persons served with such notice had been original parties.

Filing of notice of appeal

(2) A notice of appeal shall be filed and served as provided in subsection (1) within thirty days from the date upon which the judgment or order appealed from is signed, entered or pronounced, but a judge may, either before or after the expiration of that time, extend the time for filing or serving such notice. 1971 (1st) c. 10, s. 23.

Time for filing

24. (1) Except as ordered by the magistrate from whose decision an appeal is taken or the judge before whom the appeal is brought, and subject to such conditions as he may impose, an appeal does not operate as a stay of execution or of proceedings under the decision appealed from, and no intermediate act or proceeding is invalid by reason only of that appeal. 1971 (1st) c. 10, s. 24.

Appeal not to stay proceedings

25. (1) When a question of fact is involved in an appeal, the evidence taken before a magistrate bearing on the question, shall, subject to any order of the judge before whom the appeal is brought be brought before such judge as follows:

How questions of fact to be brought on appeal

- (a) in the case of evidence taken by affidavit, by the production of the affidavit or by permission of the judge by copies of the affidavit; and
- (b) in the case of evidence given orally, by production of any or all of the following :
 - (i) the transcript of the evidence, as prepared by a stenographer who took down the evidence at trial, or notes made by the magistrate, and
 - (ii) such other material as the judge before whom the appeal is brought deems proper. 1971 (1st) c. 10, s. 25.

26. (1) A person appealing from a decision of a magistrate shall serve upon the respondent or his solicitor a copy of the appeal book therein, and shall file with the Clerk of the Territorial Court two copies of such appeal book within twenty days from the filing of the notice of appeal or within such other time as a judge directs.

Form of appeal
books

(2) The appeal book shall be clearly and legibly typewritten or printed and must be approved of by the opposite party or settled by the magistrate from whose decision the appeal is made before it is filled under this section. 1971 (1st) c. 10, s. 26.

Hearing of
appeal

27. (1) The hearing of an appeal shall be held at such time as is fixed by the judge before whom the appeal is taken. 1971 (1st) c. 10, s. 27.

Fees

28. (1) There shall be paid to the Clerk of the Territorial Court on all appeals from the Magistrate's Court such fees as may be prescribed by the Territorial Court. 1971 (1st) c. 10, s. 28.

RULES OF COURT

Commissioner
may make rules

29. (1) The Commissioner may after consultation with the senior full-time magistrate make rules regulating the practice and procedure in the Court, and may, without restricting the generality of the foregoing, make rules

- (a) prescribing the duties of the Clerk or other officer of the Court and employees thereof;
- (b) for the recording of proceedings in Court and the transcription of any such recording;
- (c) fixing the fees and other costs that may be charged in respect of proceedings in the Court;

- (d) regulating the proceedings in respect of any Act or Ordinance that confers jurisdiction upon the Court or a magistrate; and
- (e) governing the payment, transfer of deposit, into, or in or out of the Court of any money or property, or the dealing therewith.

(2) Where provisions in respect of practice or procedure in the Court are contained in any Ordinance, rules may be made modifying such provision to any extent that is deemed necessary for the equitable dispatch of business of the Court unless that power is expressly excluded. 1971 (1st) c. 10, s. 29. Modification of rules

REGULATIONS

- 30.** (1) The Commissioner may make regulations Commissioner's regulations
- (a) specifying the returns made by magistrates and officers of the Court;
 - (b) providing for the safekeeping, inspection and destruction of books, documents and papers of magistrates and the Court; and
 - (c) respecting any other matter considered necessary or advisable to carry out effectively the intent and purpose of this Ordinance.

(2) Any regulation made under subsection (1) may be general or particular in its application. 1971 (1st) c. 10, s. 30. Application of regulations

COURT SITTINGS

31. (1) The Commissioner after consultation with the senior fulltime magistrate shall have the power to arrange the sittings of the Court and the assignment of magistrates for hearings therein having regard to the desirability of rotating magistrates and the volume of judicial work in any area of the Territory. 1971 (1st) c. 10, s. 31. Itineraries of magistrates

TRANSITIONAL

32. (1) Where proceedings were commenced in the Police Magistrates Court as constituted immediately prior to the coming into force of this Ordinance, such proceedings shall be dealt with, continued or determined in the Magistrate's Court in accordance with this Ordinance. 1971 (1st) c. 10, s. 32.

33. (1) Every person appointed under the *Yukon Act* who upon the coming into force of this Ordinance holds office as a police magistrate, deputy police magistrate, clerk, deputy

clerk, Small Debt Official or recorder, shall continue to hold office as if appointed pursuant to this Ordinance.

(2) Notwithstanding paragraphs 2(a) or 2(d), reference in this or any other Ordinance to a magistrate, deputy magistrate, clerk, deputy clerk or Small Debt Official shall include a person continuing to hold office pursuant to subsection (1). 1971 (1st) c. 10, s. 33.

34. (1) Whenever the expression "Police Magistrate's Court," "Police Magistrate's Court Ordinance," or "Police Magistrate" or "magistrate" is mentioned or referred to in any Ordinance or in any order, rule or regulation made under any Ordinance there shall be in every case, unless the context otherwise requires, substituted the expression "Magistrate's Court", "Magistrate's Court Ordinance" or "Magistrate" as the case may be. 1971 (1st) c. 10, s. 34.

Juvenile Court

35. (1) The Magistrate's Court

(a) is juvenile court for the purpose of dealing with juvenile delinquents; and

(b) has all the powers vested in a juvenile court under the *Juvenile Delinquents Act*. 1971 (1st) c. 10, s. 35.

Records of Court

36. (1) Subject to subsection (2), the records of the Court dealing with juveniles, including any reports, clinical studies or examinations made of any person party to proceedings before the Court, shall not be open to inspection by any person not a party to such proceedings or the counsel or agent of such party.

(2) A magistrate may authorize the inspection of any records described in subsection (1) by any person conducting research studies in connection with the protection, welfare and treatment of children. 1971 (1st) c. 10, s. 36.

37. (1) The *Police Magistrate's Court Ordinance* being Chapter 88 of the Revised Statutes of the Yukon Territory is repealed. 1971 (1st) c. 10, s. 37.

CHAPTER M-2

MAINTENANCE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the Maintenance Ordinance. R.O. 1958, c. 68, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“child” includes an illegitimate child, a stepchild and an adopted child (*de facto* or *de jure*), but does not include any person eighteen years of age or over; “child”

“justice” means a magistrate or any two justices of the peace or any person having the authority and jurisdiction of two justices of the peace; “justice”

“parent” or words referring to or denoting the parent of a person includes an individual whose child that person is. “parent”

(2) For the purposes of this Ordinance, a wife shall be deemed deserted where Deserted wife

(a) her husband has, without sufficient cause, refused or neglected to supply her or her children with adequate food, clothing and other necessaries; or

(b) she is living apart from her husband because of his assaults or other acts of cruelty towards her or her children.

(3) For purposes of this Ordinance, a parent shall be deemed dependent where by reason of age, disability or infirmity he is unable to maintain himself. R.O. 1958, c. 68, s. 2. Dependent parent

LIABILITY FOR MAINTENANCE

3. (1) The father and mother of a child shall provide maintenance including adequate food, clothing, medical aid and lodging for such child. Maintenance of child

(2) For purposes of this section, father includes a grandfather and mother includes a grandmother. R.O. 1958, c. 68, s. 3. Father and mother defined

- Maintenance of parent 4. (1) The son or daughter of a dependent parent shall provide maintenance including adequate food, clothing, medical aid and lodging for such parent.
- Son and daughter defined (2) For purposes of this section, son includes a grandson and daughter includes a granddaughter. R.O. 1958, c. 68, s. 4.
- Maintenance of wife 5. (1) The husband of a deserted wife shall provide maintenance including adequate food, clothing, medical aid and lodging for such wife. R.O. 1958, c. 68, s. 5.
- Liability for maintenance of spouse 6. (1) Subject to this Ordinance, a husband is primarily liable for the maintenance of his wife and the wife is primarily liable for the maintenance of her husband. R.O. 1958, c. 68, s. 6.
- Priority of liability for maintenance of child 7. (1) Subject to this Ordinance, where liability is imposed for the maintenance of a child under section 3, no liability under this Ordinance arises
- (a) in the case of a mother, unless the father is unable and the mother is able to maintain the child in respect of whom the order is sought,
 - (b) in the case of a grandfather, unless
 - (i) both the father and mother are deceased, and
 - (ii) the grandfather is able to maintain the child in respect of whom the order is sought, and
 - (c) in the case of a grandmother, unless
 - (i) the father, mother and grandfather are all deceased, and
 - (ii) the grandmother is able to provide maintenance for such child.
- Priority of liability for maintenance of parent (2) Subject to this Ordinance, where liability is imposed under section 4 for the maintenance of a dependent parent, no liability under this Ordinance arises
- (a) in the case of a daughter unless the son is unable and the daughter is able to maintain the parent in respect of whom the order is sought,
 - (b) in the case of a grandson, unless
 - (i) both the son and daughter are deceased, and
 - (ii) the grandson is able to provide such maintenance, and
 - (c) in the case of a granddaughter, unless
 - (i) the son, daughter and grandson are all deceased, and

- (ii) the granddaughter is able to provide such maintenance.

(3) Section 4 does not impose liability on a person to provide maintenance for another if he is unable to do so out of his own property or by means of his own labour. R.O. 1958, c. 68, s. 7. Exemption

MAINTENANCE ORDERS

8. (1) Where liability to provide maintenance is imposed upon any person by sections 3, 4, 5 or 6 and such person fails to provide the required maintenance, then such person may be summoned before a justice by any person having knowledge of the fact. Application for maintenance order

(2) Upon proof of service of the summons, and whether or not the person so summoned appears, the justice having regard to all of the circumstances of the case may make an order for maintenance. R.O. 1958, c. 68, s. 8. Power to make order

9. (1) An order for maintenance may provide Contents of order
- (a) that the person in respect of whose maintenance the order is made shall be cared for by any person or in a home, shelter, hospital or other institution;
 - (b) for the period or periods during which the maintenance granted thereunder is to be paid;
 - (c) for the instalments in which the maintenance is to be paid and the amounts of the instalment;
 - (d) to what person or institution such instalments are to be paid; and
 - (e) that any one or more of the persons herein rendered liable for the maintenance of another, whether they are named in the proceedings taken under this Ordinance or not, shall pay such maintenance or contribute thereto where it seems to the justice harsh or unfair that the person primarily liable should bear the whole or any part of the burden thereof. R.O. 1958, c. 68, s. 9.

10. (1) In the case of a dependent parent, an order may be made whether or not the dependent parent is being cared for in a sanatorium, home, mental hospital or charitable institution. R.O. 1958, c. 68, s. 10. Parent under care

11. (1) Where it is proved that the wife has Wife guilty of adultery or desertion
- (a) committed adultery which the husband has not condoned or connived at or by his wilful misconduct condoned to, or

(b) deserted her husband without lawful excuse, no order shall be made under section 8 for the maintenance of the wife unless in the discretion of the justice, having regard to all the circumstances, the justice otherwise orders. R.O. 1958, c. 68, s. 11.

No order made
where separation
agreement exists

12. (1) Where the husband and wife have separated by mutual agreement and the wife has agreed in writing to release her husband from liability for her maintenance, no order shall be made under this Ordinance for her maintenance.

Exceptions

(2) This section does not apply

- (a) where in a separation agreement the husband has agreed to contribute to the maintenance of his wife and is in default therein under the agreement ;
- (b) where in a separation agreement the husband has not provided suitably therein according to his circumstances for the maintenance of his wife ; and
- (c) where the wife has become or is likely to become a public charge or in need of public assistance. R.O. 1958, c. 68, s. 12.

Power to vary or
rescind order

13. (1) On application before the justice who made the order any order made under this Ordinance may be varied or rescinded by said justice upon proof that the circumstances of any of the parties have changed since the making of the original order or any subsequent order varying the original order.

Application

(2) The application may be made by or on behalf of any person named in the order.

ENFORCEMENT OF ORDERS

Summons upon
default

14. (1) In the case of non-payment of any sum ordered to be paid by an order for maintenance granted under section 8, together with costs, for thirty days after the order has been made, or for such less time as the order may provide and when the payment ordered is in arrears, the person on whose behalf the order has been obtained or any person acting on his behalf may procure from the justice who made the order a summons against the person in default. R.O. 1958, c. 68, s. 14.

Service of
summons

15. (1) A summons may be served on the person named therein either personally or in such other manner as the justice may direct and shall require the person so served to

attend at the time and place mentioned to show cause why the order should not be enforced. R.O. 1958, c. 68, s. 15.

16. (1) If the person so summoned does not attend as required by the summons, or show a just and sufficient reason for non-attendance, or does not satisfy the justice that he is unable to pay the sum ordered to be paid, the justice may enforce the order by like proceedings, including imprisonment, as are applicable in the case of a fine or penalty imposed by a justice of the peace in proceedings under the provisions of the *Criminal Code* relating to summary convictions. R.O. 1958, c. 68, s. 16.

Enforcement of order by fine or imprisonment

APPEALS

17. (1) Any party aggrieved by an order for maintenance under this Ordinance, or a refusal or failure to make such an order, may appeal the decision of a justice to the Court.

Appeal to Territorial Court

(2) The Court shall hear and determine an appeal taken in accordance with this section by holding a trial *de novo*.

Trial *de novo*

(3) All costs in an appeal under this section are within the discretion of the Court.

Costs in appeal

(4) Where an appeal is taken under this section from an order made under section 8, it shall not operate as a stay of proceedings unless the justice who made the order otherwise directs. R.O. 1958, c. 68, s. 17.

Stay of proceedings

MISCELLANEOUS

18. (1) The costs of proceedings under this Ordinance shall be the same as in proceedings under the *Criminal Code* relating to summary convictions. R.O. 1958, c. 68, s. 18.

Application to *Criminal Code*

19. (1) The provisions of the *Criminal Code* as to appeals in the Territory from summary convictions and the proceedings thereunder and incidental thereto shall apply to any order made under this Ordinance. R.O. 1958, c. 68, s. 19.

Idem.

20. (1) In proceedings under this Ordinance the parties are competent and compellable witnesses against each other. R.O. 1958, c. 68, s. 20.

Parties competent and compellable witnesses

21. (1) Any case arising under this Ordinance may in the discretion of the justice be heard in private. R.O. 1958, c. 68, s. 21.

Hearing in private

Where justice
absent or dead

22. (1) Where any act is required to be performed under this Ordinance by a justice who made a particular order and such justice is absent or dead, the act may be performed by any other justice. R.O. 1958, c. 68, s. 22.

CHAPTER M-3

MARRIAGE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Marriage Ordinance*. Short title R.O. 1958, c. 69, s. 1.

INTERPRETATION

- 2. (1) In this Ordinance Definitions "clergyman" means a person duly ordained or appointed by his religious body and authorized by this Ordinance to solemnize marriage ; "clergyman" "issuer" means a person appointed under this Ordinance to issue licences ; "issuer" "licence" means a marriage licence issued under this Ordinance ; "licence" "marriage commissioner" means a person who is not a clergyman who is appointed or authorized under this Ordinance to solemnize marriage ; "marriage commissioner" "religious body" includes a church, religious denomination, sect, congregation or society. R.O. 1958, c. 69, s. 2. "religious body"

REGISTRATION OF CLERGYMEN

3. (1) Subject to subsection (2), the Commissioner shall keep a register of the names of clergymen who permanently reside in the Territory and whose names have been submitted to him by the ecclesiastical authorities of the religious bodies in which they are ordained or by which they are appointed. Register

(2) The Commissioner shall decide whether a religious body from which he receives a certified list of the names of its clergymen resident in the Territory is established, both as to continuity of existence and as to recognized rites and usages respecting the solemnization of marriage, as to warrant the registration of its clergymen under this Ordinance and may refuse to register the names of clergymen submitted by a religious body generally or the names of any particular clergymen. Commissioner to decide what clergymen may be registered

Issue of certificates (3) The Commissioner shall issue a certificate or registration to each clergyman registered under subsection (1).

Clergymen temporarily resident (4) Subject to subsection (2), the Commissioner may register clergymen who are temporarily resident in the Territory and whose names have been submitted by their religious body and may issue certificates of registration to such clergymen to be valid for the period fixed by the Commissioner and named in the certificate. R.O. 1958, c. 69, s. 3.

Duty of religious bodies 4. (1) The proper ecclesiastical authorities of each religious body whose clergymen are authorized to solemnize marriage shall annually, or oftener if required by the Commissioner, supply the Commissioner with a certified list in Form A in Schedule I of clergymen to be registered and shall notify the Commissioner of every clergyman who has died or who has ceased to reside in the Territory or who has in any other way ceased to possess the qualifications qualifying him to be registered. R.O. 1958, c. 69, s. 4.

Cancellation of registration 5. (1) The Commissioner may at any time, as the result of information received by him under section 4, strike the name of a clergyman off the register and cancel his certificate of registration. R.O. 1958, c. 69, s. 5.

MARRIAGE COMMISSIONERS

Appointment 6. (1) The Commissioner may appoint persons as marriage commissioners with authority to solemnize civil marriages under this Ordinance.

Justices of the peace (2) Every justice of the peace who has the powers of two justices of the peace is *ex officio* a marriage commissioner. R.O. 1958, c. 69, s. 6.

Fee 7. (1) A marriage commissioner is entitled to a fee of five dollars for each marriage solemnized by him under this Ordinance. R.O. 1958, c. 69, s. 7.

SOLEMNIZATION OF MARRIAGE

Persons qualified to solemnize marriage 8. (1) Every clergyman who holds a valid certificate of registration under this Ordinance and every marriage commissioner may solemnize marriage in the Territory between persons not under a legal disqualification to contract marriage.

(2) No person other than a clergyman or marriage commissioner shall solemnize a marriage in the Territory. R.O. 1958, c. 69, s. 8.

9. (1) No clergyman shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Ordinance or, where banns are published in lieu of a licence, unless the provisions of this Ordinance relating to the publication of banns have been complied with.

Preliminaries required

(2) No marriage commissioner shall solemnize marriage unless the parties to the intended marriage produce to him the licence required by this Ordinance. R.O. 1958, c. 69, s. 9.

10. (1) No marriage shall be solemnized unless it takes place within three months after the second publication of the banns or within three months after the issue of a licence, as the case may be.

Within three months after banns or licence

(2) No marriage shall be solemnized until after the expiry of twenty-four hours from the time of issue of the licence therefor. R.O. 1958, c. 69, s. 10.

Within twenty-four hours

11. (1) No marriage shall be solemnized unless at least two adult credible witnesses are present at the ceremony in addition to the contracting parties and the person performing the ceremony. R.O. 1958, c. 69, s. 11.

Presence of witnesses

12. (1) No marriage shall be solemnized between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the officiating clergyman or marriage commissioner is satisfied from evidence adduced to him that the proposed marriage is lawful and that exceptional circumstances exist that render its solemnization between those hours advisable. R.O. 1958, c. 69, s. 12.

Hours for solemnization

13. (1) No clergyman or marriage commissioner shall solemnize a marriage where either of the contracting parties does not speak or understand the language in which the ceremony is to be performed unless an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony. R.O. 1958, c. 69, s. 13.

Where party does not understand language used

14. (1) Where a marriage ceremony is performed by a marriage commissioner

Civil marriage

(a) each of the parties to the marriage shall, in the presence of the marriage commissioner and the witnesses, make the following declaration:

“I do solemnly declare that I do not know of any lawful impediment why I, _____, may not be joined in matrimony to _____”;

and

(b) each of the parties shall, in the presence of the marriage commissioner and the witnesses, say to the other party:

“I call upon these persons here present to witness that I, _____, do take thee, _____, to be my lawful wedded wife (or husband).” R.O. 1958, c. 69, s. 14.

Second ceremony

15. (1) Persons who, having been married in accordance with the provisions of this Ordinance relating to civil marriage, desire a second ceremony for religious purposes may have that ceremony performed.

Supplemental to prior marriage

(2) The second ceremony referred to in subsection (1) is supplemental to and does not supersede the prior civil marriage and shall not be registered as a marriage.

Prior licence sufficient

(3) The licence obtained for the prior civil marriage is sufficient for the purposes of the second ceremony and the second ceremony need not be performed within three months from the issue of the licence. R.O. 1958, c. 69, s. 15.

Registration of marriage

16. (1) Subject to subsection 15(2), every person who is authorized to solemnize marriage under this Ordinance shall register every marriage solemnized by him in accordance with the provisions of the *Vital Statistics Ordinance*.

Certificate of marriage

(2) Upon completion of the marriage ceremony, the officiating clergyman or marriage commissioner shall furnish the contracting parties with a certificate of marriage. R.O. 1958, c. 69, s. 16.

Protection of clergymen, etc.

17. (1) No clergyman or marriage commissioner is subject to an action or liable for damage by reason of the existence of a legal impediment to the marriage, unless, at the time he performed the ceremony, he was aware of the impediment. R.O. 1958, c. 69, s. 17.

Effect of lack of authority

18. (1) No marriage is invalid by reason only that the person performing the ceremony was not then registered under this Ordinance. R.O. 1958, c. 69, s. 18.

PROHIBITION TO MARRIAGE

19. (1) No person shall perform a marriage ceremony where he knows that either of the contracting parties is a mentally disordered person so formally declared under any law or Ordinance in force in the Territory.

Mentally disordered person

(2) No person shall go through a form of marriage with any person in the Territory where he knows that such person is a mentally disordered person so formally declared under any law or Ordinance in force in the Territory. R.O. 1958, c. 69, s. 19.

20. (1) No person shall marry in the Territory where he knows that he is suffering from a communicable disease in a communicable state or where he knows that the other contracting party is suffering from a communicable disease in a communicable state. R.O. 1958, c. 69, s. 20.

Communicable disease

21. (1) No person shall perform a marriage ceremony where he knows or has reason to believe that either of the contracting parties is under the influence of liquor at the time of the ceremony.

Under influence of liquor

(2) No person shall go through a form of marriage with any person in the Territory if he knows or has reason to believe that such person is under the influence of liquor at the time of the ceremony. R.O. 1958, c. 69, s. 21.

22. (1) No issuer shall issue a marriage licence and no clergyman shall perform a marriage ceremony where either of the contracting parties is under the age of fifteen years unless there is furnished to the issuer or clergyman

Party under fifteen years of age

- (a) a certificate of a duly qualified medical practitioner that the female contracting party is pregnant; or
- (b) where no qualified medical practitioner is available, other evidence satisfactory to the issuer or clergyman that the female contracting party is pregnant; or
- (c) the written permission of the Commissioner to the issue of the marriage licence or to the performance of the marriage ceremony, as the case may be.

(2) A certificate, other evidence or written permission of the Commissioner given under subsection (1) does not relieve any person from the requirements of this Ordinance respecting consents to the marriage of minors. R.O. 1958, c. 69, s. 22.

Minors still require consent

PUBLICATION OF BANNES

Licence not required where banns published

23. (1) Persons intending to marry do not require a licence where banns are published in accordance with this section.

Proclamation of intended marriage

(2) Intention to marry shall be proclaimed openly and in an audible voice during divine service at least once on two successive Sundays in the place of public worship in which both of the persons intending to marry have been attending worship or in some place of public worship of the religious body with which the clergyman who is to perform the marriage ceremony is connected in the local municipality, parish, circuit or pastoral charge where both of the persons intending to marry have, for the space of fifteen days immediately preceding had their usual place of abode.

Where Saturday, etc., usual day of worship

(3) Where the practice of faith of a religious body substitutes Saturday or some other day as the usual and principal day of the week for the celebration of divine service, proclamation of banns may be made on two consecutive Saturdays or such other days.

Where both parties do not reside in same place

(4) Where both of the persons intending to marry do not reside in the same local municipality, parish, circuit or pastoral charge, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge, if within Canada, where the other of the contracting persons has, for the space of fifteen days immediately preceding, had his or her usual place of abode and the marriage shall not be solemnized until there is delivered to the officiating clergyman a certificate in Form B in Schedule I showing that the proclamation has been made.

Where divine service not regularly held

(5) Notwithstanding anything in this section, where, by reason of remoteness or otherwise, divine service, by the clergyman who is to perform the marriage ceremony, is not regularly held on successive Sundays, Saturdays or other days at a place in the Territory, intention to marry shall, at that place, be proclaimed at not less than two successive divine services other than in the same day, openly and in an audible voice by the said clergyman. R.O. 1958, c. 69, s. 23.

Statutory declaration

24. (1) Before publication of banns each of the persons intending to marry shall personally and separately make a statutory declaration in Form C in Schedule I before the clergyman who is to proclaim the banns.

Clergyman may take declarations

(2) A clergyman who is to proclaim banns may take declarations and administer oaths for the purposes of this section.

(3) Before publication of banns, where either of the persons intending to marry has been previously married or is a minor, the declarations, proofs, consents or other documents respecting previously married persons or minors required by this Ordinance shall be furnished by that person to the clergyman who is to proclaim the banns. Other documents

(4) A clergyman who proclaims banns shall, where he is not also the clergyman who is to solemnize the marriage, transfer all documents received by him pursuant to this section to the clergyman who is to solemnize the marriage within forty-eight hours after the second publication of banns has been made. R.O. 1958, c. 69, s. 24. Transfer

25. (1) Where either party to the intended marriage desires a certificate of publication of banns the clergyman who proclaims the banns, upon payment to him of a fee of fifty cents, shall furnish a certificate in Form B in Schedule I. R. O. 1958, c. 69, s. 25. Certificate of publication

26. (1) Within forty-eight hours after the solemnization of a marriage subsequent to the publication of banns the officiating clergyman shall forward to the Commissioner a certificate of the publication of banns in Form B in Schedule I, the statutory declarations in Form C in Schedule I required under section 24 and, in respect of persons previously married or minors, the declarations, proofs, consents or other documents required by this Ordinance to be furnished to him by the contracting parties or transferred to him by the clergyman who proclaimed the banns. R.O. 1958, c. 69, s. 26. Clergyman to forward documents to Commissioner

27. (1) No irregularity or insufficiency in the proclamation of the intention to marry where banns are published or in the certificate of publication shall invalidate a marriage. R.O. 1958, c. 69, s. 27. Effect of irregularities

MARRIAGE LICENCES

28. (1) The Commissioner may appoint persons to issue marriage licences under this Ordinance. R.O. 1958, c. 69, s. 28. Appointment

29. (1) Every issuer shall on the first day of every month make a return to the Commissioner of all licences issued by him during the preceding month with the names of the persons to whom the licences were issued and shall forward to the Commissioner the statutory declaration in Form C in Schedule I taken in each instance together with documents required to be deposited with him respecting previously mar- Monthly returns

ried persons or minors or any other documents required to be deposited with him under this Ordinance.

Commissioner may alter periods, etc.

(2) The Commissioner may in his discretion alter the periods in which returns shall be made by an issuer or may order special returns to be made. R.O. 1958, c. 69, s. 29.

Fees

30. (1) Upon application for a licence, the applicant shall pay the prescribed fee to the issuer who shall forthwith transmit to the Territorial Secretary such portion of the fee as may be prescribed. R.O. 1958, c. 69, s. 30; 1971 (1st) c. 20, s. 14(1).

Appointment of deputy issuers

31. (1) An issuer who is prevented from acting by sickness may, with the approval of the Commissioner, appoint in writing for a period not exceeding three months, a deputy issuer to act for him in his absence.

Signature by deputy issuer

(2) Every deputy issuer shall sign each licence issued by him in the following manner:

, Issuer of Marriage Licences,
per _____, Deputy Issuer."

Powers and duties

(3) A deputy issuer has the same powers and duties as an issuer. R.O. 1958, c. 69, s. 31.

Issuer may take declarations

32. (1) An issuer may take declarations and administer oaths for the purposes of this Ordinance. R.O. 1958, c. 69, s. 32.

Prohibition

33. (1) No issuer or deputy issuer shall issue a licence for his own marriage. R.O. 1958, c. 69, s. 33.

Form of licences

34. (1) Licences shall be in Form D in Schedule I.

Form to be completed by issuer

(2) Every issuer shall fill out the blanks and endorse on the licence the date and time of issue and shall sign each licence at the time of issue. R.O. 1958, c. 69, s. 34.

Issuer to read licence to parties

35. (1) The issuer shall satisfy himself that both parties to the intended marriage fully understand the contents of a licence and shall read over the form of licence to each of the parties separately.

Interpreter where party does not understand English

(2) Where either of the parties to the intended marriage does not understand the English language an independent interpreter shall be employed to explain the contents of the licence to that party. R.O. 1958, c. 69, s. 35.

36. (1) Before a licence is issued each of the persons for whose marriage it is to be issued shall personally and separately make a statutory declaration in Form C in Schedule I before the issuer. R.O. 1958, c. 69, s. 36. Statutory declaration

37. (1) Where either of the contracting parties is resident in the Territory but is unable to make the declaration required in section 36 personally before the issuer, the issuer may permit that party to make a declaration in Form E in Schedule I before a justice of the peace or a commissioner for oaths or a notary public. Where resident party unable to attend

(2) The declaration permitted under subsection (1) shall contain the reason relied upon to excuse personal attendance before the issuer and shall be delivered to the issuer at least seven days before the issue of the licence. R.O. 1958, c. 69, s. 37. Contents and delivery of declaration

38. (1) Where one of the contracting parties resides outside the Territory and is unable personally to appear before the issuer, the issuer may, in his discretion, issue a licence upon the declaration in Form F in Schedule I to be taken before the issuer by the other contracting party. Where party is not a resident

(2) The declaration under subsection (1) shall be made at least seven days before the issue of the licence. R.O. 1958, c. 69, s. 38. Time of declaration

39. (1) No licence shall be issued between the hours of ten o'clock in the afternoon and six o'clock in the forenoon unless the issuer is satisfied from evidence adduced to him that the proposed marriage is lawful and that exceptional circumstances exist that render the issue of a licence between those hours advisable. R.O. 1958, c. 69, s. 39. Time for issue of licence

40. (1) No irregularity in the issue of a licence where it has been obtained or acted on in good faith shall invalidate a marriage solemnized in pursuance thereof. R.O. 1958, c. 69, s. 40. Effect of irregularity

PERSONS PREVIOUSLY MARRIED

41. (1) Subject to subsection (2), where either of the parties intending to be married is a widow or widower, she or he shall furnish to the clergyman proclaiming the banns or an issuer of marriage licences, as the case may be, a certificate of the death of the former husband or wife issued under the *Vital Statistics Ordinance*, or the law respecting vital statistics of the place where the death is registered. Certificate of death of deceased spouse

Affidavit in lieu of certificate

(2) Where a clergyman or issuer is satisfied that a widow or widower cannot obtain a certificate of death of the deceased spouse, he may accept as proof of death an affidavit made by a credible adult person who has knowledge of the death.

Nature of affidavit

(3) An affidavit under subsection (2) must be made by a credible adult person other than either of the persons intending to marry and shall be sworn before a justice of the peace, commissioner for oaths or notary public. R.O. 1958, c. 69, s. 41.

Application for presumption of death

42. (1) Where a previously married person cannot produce proof of death of his or her previous spouse and alleges that reasonable grounds exist for supposing that the other party to the previous marriage is dead, that person may present a petition to a judge for a declaration of presumption of death and the judge, if satisfied that such reasonable grounds exist, may make a declaration of presumption of death.

Evidence on petition

(2) In an application under subsection (1) evidence, satisfactory to the judge, that for a period of seven years or upwards the other party to the previous marriage has been continually absent from the petitioner and that the petitioner has made reasonable inquiries and has no reason to believe that the other party has been living within that period is sufficient evidence in support of the petition.

Documents to be produced on re-marriage

(3) A previously married person who has obtained a declaration of presumption of death under this section and who wishes to marry again shall present a certified copy of the declaration to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be, together with a statutory declaration made by that person in Form G in Schedule I, and a statutory declaration in Form H in Schedule I, made by the other contracting party of the intended marriage. R.O. 1958, c. 69, s. 42.

Where previous marriage dissolved or annulled in Territory

43. (1) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled in the Territory, that party shall furnish to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be,

- (a) a certificate of the dissolution or annulment obtained from an appropriate official under the *Vital Statistics Ordinance*; or
- (b) a certified copy of the degree absolute or decree of annulment obtained from the clerk of the appropriate court and, where an appeal from such decree is permit-

ted, a certificate from the Clerk of the Court showing that no appeal has been brought within the time limited for appeal and that that time has expired or that, if brought, the appeal has been dismissed.

(2) Where either party intending to be married has been previously married but the previous marriage has been dissolved or annulled elsewhere than in the Territory that party shall furnish to the clergyman proclaiming the banns or to an issuer of marriage licences, as the case may be, a certificate of the dissolution or annulment, or the decree absolute or decree of annulment or a certified or notarial copy thereof, obtained from a public or court official of the province, state or country in which the marriage was dissolved or annulled. R.O. 1958, c. 69, s. 43.

Where previous marriage dissolved or annulled outside the Territory

MINORS

44. (1) A party to an intended marriage who is under the age of twenty-one years is a minor within the meaning of this Ordinance.

Minor

(2) Before the publication of banns or the issue of a licence, a minor shall deposit with the clergyman who is to proclaim the banns or with the issuer a consent to the marriage in Form I in Schedule I.

Consent

(3) A consent required under subsection (2) shall be executed

Who may execute consent

- (a) by both parents of the minor where both his parents are living and are not legally separated;
- (b) by the surviving or other parent of the minor where one of his parents is dead or is a patient in a mental institution;
- (c) by the parent or other person who has legal custody of the minor where his parents are legally separated; or
- (d) by a lawfully appointed guardian of the minor or by an acknowledged guardian who has brought up the minor or has supported him for at least three years preceding the intended marriage where both his parents are dead or where both parents are patients in a mental institution or the surviving parent is a patient in a mental institution.

(4) The consent required by this section is a condition precedent to a valid marriage, unless the marriage has been consummated or the contracting parties have, after the ceremony, cohabited and lived together as man and wife. R.O. 1958, c. 69, s. 44.

Consent is a condition precedent

Statutory
declaration in
lieu of consent

45. (1) The consent mentioned in section 44 shall not be required when a minor is at least eighteen years of age and deposits with the clergyman who is to proclaim the banns or with the issuer a statutory declaration in Form J in Schedule I, made by the minor and sworn before a justice of the peace, commissioner for oaths or a notary public.

Contents

(2) The statutory declaration referred to in subsection (1) shall show

- (a) that the father and mother of the minor are dead and that there is no guardian of the minor,
- (b) that a parent whose consent is required is not a resident of the Territory and that the minor has been a resident of the Territory for twelve months preceding the date of the declaration,
- (c) that the father and mother of the minor are patients in a mental institution or that the surviving parent is a patient in a mental institution and that there is no guardian of the minor, or
- (d) that the minor has, for not less than six months immediately preceding the date of the statutory declaration, been living apart from his parents or guardian and has not received financial aid or support from his parents or guardian within that period. R.O. 1958, c. 69, s. 45.

Order dispensing
with consent

46. (1) Where the parents or guardian of a minor refuse or neglect to execute the consent required under section 44, the minor may apply to a judge and the judge may, in his discretion, grant an order dispensing with such consent.

Order to be
deposited with
clergyman, etc.

(2) Where an order has been granted under subsection (1) the minor shall deposit the order or a certified copy thereof with the clergyman who is to proclaim the banns or with the issuer before banns are published or a licence is issued, as the case may be. R.O. 1958, c. 69, s. 46.

Clergyman, etc.,
may ask for birth
certificate

47. (1) Where the clergyman who is to proclaim the banns or the issuer, as the case may be, is not satisfied that a minor is over the age of fifteen years he may require the minor to furnish a birth certificate or, in lieu thereof, an affidavit showing the age of the minor and made by a credible adult who has knowledge of the date of the birth of the minor. R.O. 1958, c. 69, s. 47.

VALIDITY OF CERTAIN MARRIAGES

48. (1) Where it is made to appear by statutory declaration to the satisfaction of the Commissioner that a marriage has been solemnized in the Territory in good faith and in intended compliance with this Ordinance by a clergyman or marriage commissioner and that, in ignorance of the requirements of this Ordinance, the marriage was not registered and where

Registration dispensed with under certain conditions

- (a) neither of the parties to the marriage was at that time under any legal disqualification to contract the marriage;
- (b) after the marriage the parties lived together and cohabitated as husband and wife; and
- (c) the validity of the marriage has not been questioned by action in any court;

the Commissioner may in writing declare that the requirements of this Ordinance as to registration are waived in respect of that marriage and that the marriage has been lawful and valid from the date of solemnization. R.O. 1958, c. 69, s. 48.

49. (1) Where a form of marriage is gone through between persons either of whom is a minor, without the consent required by this Ordinance, and the marriage has not been consummated and the parties thereto have not, after the ceremony, cohabitated and lived together as husband and wife. a judge has jurisdiction to entertain an action by the contracting party who was at the time of the ceremony a minor and to declare and adjudge that a valid marriage was not effected or entered into.

Nullity of marriage

(2) A judge shall not declare a marriage void under subsection (1) where he is satisfied from evidence adduced to him that sexual intercourse has taken place between the parties before their marriage was solemnized.

Where sexual intercourse before marriage

(3) A judge shall not declare a marriage void upon consent of the parties or in default of appearance or of pleading or otherwise than after a trial.

No judgment by consent or in default

(4) At every trial under subsection (1) the evidence shall be taken *viva voce* but the judge may permit the use of depositions of witnesses residing out of the Territory or of witnesses examined *de bene esse*.

Evidence

(5) The judge may order the examination of both or of either of the parties before him touching the matters in question in the action and may order either party to submit

Examination of parties

to a physical examination by a duly qualified medical practitioner appointed for the purpose by the judge. R.O. 1958, c. 69, s. 49.

OFFENCES AND PENALTIES

Issuers

50. (1) Every issuer who

- (a) issues a licence without first having obtained all the documents required by this Ordinance,
- (b) issues a licence where either contracting party is prohibited from marrying under this Ordinance,
- (c) fails to make any return or payment required by this Ordinance, or
- (d) neglects or refuses to perform any duty that he is required by this Ordinance to perform,

commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 69, s. 50.

Issue of licences
by unauthorized
persons

51. (1) Every person who issues or purports to issue licences or issues any documents purporting to be a marriage licence and who is not a duly appointed issuer under this Ordinance commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars. R.O. 1958, c. 69, s. 51.

Solemnizing
marriage
contrary to
Ordinance

52. (1) Every person who solemnizes a marriage contrary to the provisions of this Ordinance commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars. R.O. 1958, c. 69, s. 52.

Performing
ceremony after
removal from
office

53. (1) Every person who, having been a clergyman or marriage commissioner with authority to solemnize marriage, has been deposed or removed from his ministry or office and who solemnizes or undertakes to solemnize a marriage after he has been deposed or removed commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or to a term of imprisonment not exceeding twelve months. R.O. 1958, c. 69, s. 53.

False statements

54. (1) Every person who wilfully makes or causes to be made a false statement of particulars required to be recorded or reported under this Ordinance commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars. R.O. 1958, c. 69, s. 54.

General penalty

55. (1) Every person who violates a provision of this Ordinance for which no other penalty is provided commits an

offence and is liable on summary conviction to a fine not exceeding twenty dollars. R.O. 1958, c. 69, s. 55.

56. (1) Every prosecution for an offence under this Ordinance shall be commenced within two years from the date of the offence. R.O. 1958, c. 69, s. 56. Time limit for prosecution

57. (1) No prosecution for an offence under this Ordinance shall be commenced until the permission of the Commissioner has been obtained. R.O. 1958, c. 69, s. 57. Consent to prosecution

58. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20, s. 14(2).

SCHEDULE I

FORM A

LIST OF CLERGYMEN AUTHORIZED TO SOLEMNIZE MARRIAGE

The , being a religious body within the meaning of the Marriage Ordinance and having well recognized rites and ceremonies respecting the solemnization of marriage, hereby makes application by its governing authority for the registration of the persons whose names are hereinafter set forth. Each of the said persons is duly ordained or appointed according to our rites and ceremonies and we respectfully submit are clergymen within the definition of section 2 of the Marriage Ordinance.

The undersigned, being the governing authority duly authorized to act in the premises on behalf of the said religious body, hereby certify to the statements hereinafter set forth.

Dated at , this day of , 19

Signature.....

Address.....

Name Address Pastoral Charge

R.O. 1958, c. 69, Form A.

Marriage
FORM B

Chap. M-3

CERTIFICATE OF PUBLICATION OF BANNS

I, _____, of _____,
in the Yukon Territory, do hereby certify that on _____
_____, the _____ day of _____ 19____,
and on _____, the _____ day of _____ 19____,
the intention of _____ and of _____
_____ of _____ to
intermarry was duly proclaimed by me in accordance with the
Marriage Ordinance.

I further certify that I verily believe that the said
_____ and _____
had their usual place of abode at _____
for the space of fifteen days immediately preceding the said
_____ day of _____ 19____, being
the first day on which the proclamation of banns was made.

Dated at _____ this _____ day of _____ 19____

.....
Clergyman proclaiming banns

.....
Address

.....
Religious Body

I hereby certify that the above named contracting parties
were married by me at _____ in the
Yukon Territory on _____ the _____ day of
19____.

.....
Officiating Clergyman

.....
Address

.....
Religious Body

R.O. 1958, c. 69, Form B.

FORM C

STATUTORY DECLARATION OF PARTIES TO MARRY

Whereas we, and are desirous of entering into the contract of marriage, we do severally solemnly declare as follows:

According to the best of my knowledge and belief there is no affinity, consanguinity or other lawful cause or impediment to bar or hinder the solemnization of the said marriage.

According to the best of my knowledge and belief there is no affinity, consanguinity or other lawful cause or impediment to bar or hinder the solemnization of the said marriage.

I am of the age of years.

I am of the age of years.

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.

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.

(signature of Bridegroom)

(signature of Bride)

Declared before me at in the Yukon Territory this day of , 19 .

Declared before me at in the Yukon Territory this day of , 19 .

(Clergyman or Issuer of Marriage Licences)

(Clergyman or Issuer of Marriage Licences)

R.O. 1958, c. 69, Form C.

Marriage
FORM D
MARRIAGE LICENCE

Whereas _____ of _____ and _____ and _____ determined to enter into the holy state of matrimony and are desirous of having this marriage solemnized in the manner prescribed by the *Marriage Ordinance*, I do hereby for good causes give and grant this licence, as well to them, the said parties, contracting, as to all or any clergyman or marriage commissioners, duly authorized under the said *Marriage Ordinance*, to solemnize or perform the same.

This licence is subject to the conditions that there are no impediments by reason of any affinity or consanguinity prior to marriage or by reason of any other lawful cause and if any fraud shall appear to have been committed at the time of granting this licence either by false suggestions or concealment of the truth, this licence shall be null and void to all intents and purposes whatsoever.

Commissioner of the Yukon Territory.

Issued at _____, in the Yukon Territory at _____ this _____ day of _____, 19_____
(time)

.....
Issuer

I hereby certify that the above named parties were married by me at _____, in the Yukon Territory at _____ on the _____ day of _____, 19_____
(time)

.....
Officiating Clergyman or Marriage Commissioner

.....
Address

.....
Religious Body of Clergyman

R.O. 1958, c. 69, Form D.

Marriage
FORM E

STATUTORY DECLARATION RESPECTING
NON-ATTENDANCE OF PARTY RESIDENT
IN THE YUKON TERRITORY

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I reside at _____ in the Yukon Ter-
ritory and that I am unable to appear before the issuer of *Mar-
riage Licences* because

2. That I am of the age of _____ years.

3. That to the best of my knowledge and belief there is no
affinity, consanguinity or any other lawful cause or impediment
to bar or hinder the solemnization of the said marriage.

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*.

.....
Bridegroom or Bride

Declared before me at _____ in the Yukon
Territory this _____ day of _____, 19 ____.

.....
*Justice of the Peace, Commissioner
for Oaths or Notary Public*

Marriage
FORM F

Chap. M-3

STATUTORY DECLARATION RESPECTING
NON-ATTENDANCE OF PARTY RESIDENT
OUTSIDE THE YUKON TERRITORY

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That _____, the other contracting party,
being a resident of _____
in the province of _____, is therefore unable
to personally appear before the issuer of Marriage Licences.

2. That _____, the other contracting party,
is to the best of my knowledge and belief of the age of _____
years.

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*.

.....
Bridegroom or Bride

Declared before me at _____ in the Yukon
Territory this _____ day of _____, 19 _____

.....
Issuer of Marriage Licences

R.O. 1958, c. 69, Form F.

FORM G

STATUTORY DECLARATION TO BE MADE BY
PREVIOUSLY MARRIED PERSON WHOSE FORMER
SPOUSE IS PRESUMED TO BE DEAD

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I was married to _____ at
_____, on the _____ day of _____,
19 _____,

2. That I have perused the document now shown to me and
marked Exhibit "A" to this my declaration which purports
to be a certified copy of the Order or Declaration of Presump-
tion of Death of the said _____ given by
_____, Judge of _____ on
the _____ day of _____, 19 _____

3. That I still have no reason to believe that the said
_____ is living.

4. That I have given careful consideration to the question of
the validity of the proposed marriage between
_____ and myself if
is not in fact dead at the time of the solemnization of the pro-
posed marriage and to the situation that will exist if the pro-
posed marriage takes place and the marriage proves to be
invalid by reason of it being found that the said
_____ was not in fact dead when the
marriage was solemnized.

5. That, nevertheless, it is my desire to enter into a contract
of marriage with the said _____

6. That I have acquainted _____, the
other contracting party, with the true particulars with respect
to the said Order or Declaration of Presumption of Death of
the said _____

7. That this solemn declaration is made by me
separate and apart from _____, the other party
to the proposed marriage.

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 _____ in the Yukon Ter-
ritory this _____ day of _____, 19 ____ .

.....
*Justice of the Peace, Commissioner
for Oaths or Notary Public*

R.O. 1958, c. 69, Form G.

FORM H

STATUTORY DECLARATION TO BE MADE BY PERSON
MARRYING A PREVIOUSLY MARRIED PERSON
WHOSE FORMER SPOUSE IS PRESUMED
TO BE DEAD

Whereas _____ and _____
are desirous of entering into the contract of marriage and of
having the marriage duly solemnized;

I, _____, of _____,
one of the contracting parties, do solemnly declare:

1. That I have been advised and verily believe that _____,
the other contracting party, was
married to _____ at _____
on the _____ day of _____, 19 ____

2. That I have been informed by _____
the other contracting party, of the presumption of death of
the said _____ and the circumstances
thereof.

3. That I have no reason to believe that the said _____
is still living.

4. That I have given careful consideration to the question of the validity of the proposed marriage between _____ and myself if _____ was not in fact dead at the time of the solemnization of the proposed marriage and to the situation that will exist if the proposed marriage takes place and the marriage proves to be invalid by reason of it being found that the said _____ was not in fact dead when the marriage was solemnized.

5. That, nevertheless, it is my desire to enter into a contract of marriage with the said _____

6. That this solemn declaration is made by me separate and apart from _____, the other party to the proposed marriage.

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 _____, in the Yukon Territory this _____ day of _____, 19____.

.....
*Justice of the Peace, Commissioner
 for Oaths or Notary Public*

R.O. 1958, c. 69, Form H.

FORM I

CONSENT TO MARRIAGE OF MINOR

I/we _____, hereby consent to the marriage of my/our (son, daughter or ward) whose name is _____ with _____ and I/we certify that my/our said (son, daughter or ward) is of the age of _____ years.

Dated at _____, 19 _____ this _____ day of _____.

.....
Witness

.....
Witness

.....
*Signature and address of Parents
(or Parent) or Guardian*

- NOTE:—This form must be signed:
- (a) by both parents of the minor where both his parents are living and are not legally separated;
or
 - (b) by the surviving or other parent of the minor where one of his parents is dead or is a patient in a mental institution;
or
 - (c) by the parent or other person who has legal custody of the minor where his parents are legally separated;
or
 - (d) by a lawfully appointed guardian of the minor or by an acknowledged guardian who has brought up the minor or who has supported him for at least three years preceding the intended marriage where both his parents are dead or where both parents are patients in a mental institution or where the surviving parent is a patient in a mental institution.

R.O. 1958, c. 69, Form I.

STATUTORY DECLARATION BY MINOR

Whereas _____, of _____, and _____, of _____, have agreed to enter into the state of matrimony and whereas _____ is at least eighteen years of age but is under twenty-one years of age;

I, _____, of _____, the contracting party under twenty-one years of age do solemnly declare;

1. That my father and mother are dead and that I have no guardian.

or

2. That my parent whose consent is required is not a resident of the Yukon Territory and that I have been a resident of the said Territory for twelve months preceding the date of this declaration.

or

3. That my parents (or my surviving parent) are (is) a patient(s) in a mental institution and that I have no guardian.

or

4. That, for not less than six months preceding the date of this declaration, I have been living apart from my parents (or guardian) and that I have not received financial aid or support from my parents (or guardian) within that period.

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*.

.....
Minor

Declared before me at _____ in the Yukon Territory
this _____ day of _____, 19 _____.

.....
*Justice of the Peace, Commissioner
for Oaths or Notary Public*

NOTE:—The Justice of the Peace, Commissioner for Oaths or Notary Public will delete the paragraphs numbered 1, 2, 3 and 4 which do not apply, and will initial each deletion in the left margin.

R.O. 1958, c. 69, Form J.

CHAPTER M-4

MARRIED WOMEN'S PROPERTY ORDINANCE

1. This Ordinance may be cited as the *Married Women's Property Ordinance*. R.O. 1958, c.70, s. 1. Short title

2. (1) In this Ordinance, "property" includes a thing in action and any interest in real or personal property. R.O. 1958, c. 70, s. 2. Interpretation "property"

3. (1) Subject to the provisions of this Ordinance, a married woman Capacity and liabilities of married woman

- (a) continues to be liable in respect of any tort committed, contract entered into or debt or obligation incurred by her before marriage,
- (b) is capable of rendering herself and being rendered liable in respect of any contract, debt or obligation,
- (c) is capable of acquiring, holding and disposing of any property,
- (d) is capable of suing and being sued in tort, contract or otherwise,
- (e) is subject to the enforcement of judgments and orders, and
- (f) is capable of acting in any fiduciary or representative capacity,

in all respects as if she were unmarried. R.O. 1958, c. 70, s. 3.

4. (1) All property that Property of married woman

- (a) immediately prior to the 1st day of April, 1955, was the property of a married woman,
- (b) belongs, at the time of her marriage, to a woman married after the 1st day of April, 1955, or
- (c) after the 1st day of April, 1955, is acquired by, or devolves upon, a married woman,

belongs to her in all respects as if she were unmarried and may be dealt with accordingly.

(2) Nothing in subsection (1) interferes with or renders inoperative a restriction upon anticipation or alienation Saving provision

attached to the enjoyment of any property and contained in an instrument executed prior to the 1st day of April, 1955.

Restrictions upon anticipation

(3) An instrument executed after the 1st day of April, 1955, in so far as it purports to attach to the enjoyment of property by a married woman a restriction upon anticipation or alienation that could not be attached to the enjoyment of that party by a man, is void.

When restriction deemed to have been imposed

(4) For the purposes of the provisions of this section relating to restrictions upon anticipation or alienation,

- (a) an instrument executed after the 1st day of April, 1955, attaching such a restriction pursuant to an obligation imposed prior to the 1st day of April, 1955, is deemed to have been executed prior to the 1st day of April, 1955;
- (b) a restriction contained in an instrument made in exercise of a special power of appointment is deemed to be contained in that instrument only and not in the instrument by which the power was created; and
- (c) the will of a testator who dies at any time after three years from the 1st day of April, 1955, is, notwithstanding the actual date of the execution of the will, deemed to have been executed after the 1st day of April, 1955. R.O. 1958, c. 70, s. 4.

Limitations on husband's liability

5. (1) The husband of a married woman is not, by reason only of his being her husband, liable

- (a) in respect of a tort committed by her before or after marriage, or
- (b) in respect of a contract entered into, or a debt or obligation incurred by her before marriage. R.O. 1958, c. 70, s. 5.

Saving provision

6. (1) Nothing in this Ordinance

- (a) exempts a husband from liability in respect of any contract entered into, or debt or obligation incurred by his wife after marriage in respect of which he would be liable if this Ordinance had not been passed;
- (b) prevents a husband and wife from acquiring, holding or disposing of property jointly or as tenants in common or from rendering themselves or being rendered jointly liable in respect of any tort, contract, debt or obligation, or from suing or being sued in tort, contract or otherwise in like manner as if they were not married; or

- (c) prevents the exercise by a husband and wife of any joint power given to the husband and wife. R.O. 1958, c. 70, s. 6.

7. (1) A married woman has in her own name against all persons, including her husband, the same remedies for the protection and security of her property as if she were unmarried. Remedies for protection of property

(2) A married man has against his wife the same remedies for the protection and security of his property as his wife has against him for the protection and security of her property. Idem.

(3) Subject to subsections (1) and (2), no husband or wife is entitled to sue the other in tort, except in respect of a tort committed while living apart under a separation agreement or under a decree or order for judicial separation. R.O. 1958, c. 70, s. 7. Actions in tort

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

CHAPTER M-5

MECHANICS' LIEN ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Mechanics' Lien Ordinance*. R.O. 1958, c. 72, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

"contractor" means a person contracting with or employed directly by the owner for the doing of work or placing or furnishing of machinery or materials for any of the purposes mentioned in this Ordinance; "contractor"

"sub-contractor" means a person not contracting with or employed directly by the owner for the purposes aforesaid but contracting with or employed by the contractor or under him by another sub-contractor; "sub-contractor"

"owner" includes a person having any estate or interest in the lands upon or in respect of which the work is done or materials or machinery are placed or furnished, at whose request and upon whose credit or on whose behalf or consent or for whose direct benefit any such work is done or materials or machinery placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials or machinery furnished have been commenced to be furnished. R.O. 1958, c. 72, s. 2. "owner"

LIEN FOR WORK OR MATERIALS

3. (1) No agreement shall be held to deprive any one otherwise entitled to a lien under this Ordinance, and not a party to the agreement, of the benefit of the lien but the lien shall attach notwithstanding such agreement. R.O. 1958, c. 72, s. 3. Agreement as to liens
Third party's rights

4. (1) Unless he signs an express agreement to the contrary, every mechanic, machinist, builder, miner, labourer, contractor or other person doing work upon or furnishing materials to be used in the construction, alteration or repair of any building or erection, or erecting, furnishing or placing Nature of lien

machinery of any kind in, upon or in connection with any building, erection or mine, shall, by virtue of being so employed or furnishing, have a lien for the price of the work, machinery or materials, upon the building, erection or mine, and the lands occupied thereby or enjoyed therewith, limited in amount to the sum justly due to the person entitled to the lien. R.O. 1958, c. 72, s. 4.

Property upon which lien shall attach

5. (1) The lien shall attach upon the estate and interest of the owner in the building, erection or mine, in respect of which the work is done or the materials or machinery placed or furnished and the land occupied thereby or enjoyed therewith.

Where estate charged is leasehold

(2) In cases where the estate or interest charged by the lien is a leasehold, the land itself may also, with the consent of the owner thereof, be subject to the lien if such consent is testified by the signature of such owner upon the claim of lien at the time of the registering thereof and duly verified.

Prior mortgage

(3) In case the land upon or in respect of which any work as aforesaid is executed or labour performed or upon which materials or machinery are placed is encumbered by a prior mortgage or other charge and the selling value of the land is increased by the construction, alteration or machinery, the lien under this Ordinance shall be entitled to rank upon the increased value in priority to the mortgage or other charge. R.O. 1958, c. 72, s. 5.

Claim for wages

6. (1) Without prejudice to any lien that he may have under the preceding sections, every mechanic, labourer or other person who performs labour for wages upon the construction, alteration or repairs of any building or erection or in erecting or placing machinery of any kind in, upon or in connection with any building, erection or mine shall to the extent of the interest of the owner have upon the building, erection or mine and the land occupied thereby or enjoyed therewith a lien for such wages, not exceeding the wages of thirty days or a balance equal to his wages for thirty days.

(2) The lien for wages given by this section shall attach when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done, upon the estate or interest of the wife in such property as well as upon that of her husband. R.O. 1958, c. 72, s. 6.

Owner to retain 10% of contract price for 30 days

7. (1) In all cases the owner shall in the absence of a stipulation to the contrary be entitled to retain for a period

of thirty days after the completion of the contract ten per cent of the price to be paid to the contractor. R.O. 1958, c. 72, s. 7.

8. (1) In case the lien is claimed by a sub-contractor the amount that may be claimed in respect thereof shall be limited to the amount payable to the contractor or sub-contractor, as the case may be, for whom the work has been done or the materials or machinery have been furnished or placed. R.O. 1958, c. 72, s. 8.

Lien claimed by sub-contractor

9. (1) All payments up to ninety percent of the price to be paid for the work, machinery or materials mentioned in section 4, made in good faith by the owner to the contractor, or by the contractor to the sub-contractor, or by one sub-contractor to another sub-contractor, before notice in writing by the person claiming the lien has been given to such owner, contractor or sub-contractor, as the case may be, of the claim of such person, shall operate as a discharge *pro tanto* of the lien created by this Ordinance, but this section does not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Ordinance.

Payments made in good faith without notice of lien

(2) A lien shall, in addition to all other rights or remedies given by this Ordinance, also operate as a charge to the extent of ten per cent of the price to be paid by the owner for the work, machinery or materials mentioned in section 4, up to ten days after the completion of the work or of the delivery of the materials in respect of which such lien exists and no longer, unless notice in writing be given as herein provided.

(3) A lien for wages for thirty days or for a balance equal to the wages for thirty days, shall, to the extent of ten per cent of the price to be paid to the contractor, have priority over all other liens under this Ordinance and over any claim by the owner against the contractor for, or in consequence of the failure of the latter to complete his contract. R.O. 1958, c. 72, s. 9.

10. (1) Except as herein provided, the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor. R.O. 1958, c. 72, s. 10.

Lien not to increase liability of owner

11. (1) All persons furnishing material to or doing labour for the person having a lien under this Ordinance in respect of the subject of such lien, who notify the owner of the premises sought to be affected thereby, within thirty days

Persons having claims against the lienholders

after such material is furnished or labour performed, of an unpaid account or demand against such lienholder for such material or labour, shall be entitled, subject to sections 6 and 9, to a charge therefor *pro rata* upon any amount payable by such owner under said lien; and if the owner thereupon pays the amount of such charge to the person furnishing material and doing labour as aforesaid, such payment shall be deemed a satisfaction *pro tanto* of such lien. R.O.

Disputes to be settled by action or arbitration

12. (1) In case of a dispute as to the validity or amount of an unpaid account or demand, of which notice is given to the owner under section 11, the same shall be first determined by action in the Territorial Court in that behalf, or by arbitration in manner mentioned in section 14, at the option of the person having the unpaid account or demand against the lien holder; and pending the proceedings to determine the dispute, so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien. R.O. 1958, c. 72, s. 12.

Failure to pay

13. (1) Where the person primarily liable to the person giving notice as mentioned in section 11 fails to pay the amount awarded within ten days after the award is made or judgment given, the owner, contractor or sub-contractor may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished or placed in respect of which the debt arose; and such payment, if made after an award or judgment, or if made without any arbitration or suit having been previously had or dispute existing, then, if the debt in fact existed, and to the extent thereof shall operate as a discharge *pro tanto* of the moneys so due to the person primarily liable. R.O. 1958, c. 72, s. 13.

Arbitration of sub-contractor's claim

14. (1) Where a claim is made by a sub-contractor in respect of a lien on which he is entitled, and a dispute arises as to the amount due or payable in respect thereof, the same shall be settled by arbitration.

(2) One arbitrator shall be appointed by the person making the claim, one by the person by whom he was employed and the third arbitrator by the two so chosen.

(3) The decision of the arbitrators or a majority of them shall be final and conclusive.

(4) In case either of the parties interested in any such dispute refuses or neglects within three days after notice in writing requiring him to do so, to appoint an arbitrator, or if

the arbitrators appointed fail to agree upon a third, the appointment may be made by a judge of the Territorial Court. R.O. 1958, c. 72, s. 14.

15. (1) During the continuance of a lien no portion of the property or machinery affected thereby shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the Court. R.O. 1958, c. 72, s. 15. Material affected by lien not to be removed

REGISTRATION OF LIEN

16. (1) A claim of lien applicable to the case may be deposited in the Land Titles Office of the Yukon Land Registration District and shall state Registration of lien

- (a) the name and residence of the claimant, of the owner of the property to be charged and of the person for whom and upon whose credit the work is done or materials or machinery furnished, and the time or period within which the same was or was to be done or furnished;
- (b) the work done or material or machinery furnished;
- (c) the sum claimed as due or to become due;
- (d) the description of the property to be charged; and
- (e) the date of expiring of the period of credit agreed to by the lien holder for payment for this work, materials or machinery where credit has been given.

(2) Such claim shall be verified by the affidavit of the claimant or his agent. R.O. 1958, c. 72, s. 16.

17. (1) A claim for wages may include the claims of any number of mechanics, labourers or other persons aforesaid who may choose to unite them, in such case each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim and an affidavit substantially in accordance with Form D in Schedule I shall be sufficient. R.O. 1958, c. 72, s. 17. Claim for wages Uniting several claims

18. (1) The Registrar upon payment of the proper fee shall enter and register the claim as an encumbrance against the land or the estate or interest in land therein described as provided in the *Land Titles Act*; and the said claim of lien may be described as a mechanic's lien. R.O. 1958, c. 72, s. 18. Claims to be filed as an encumbrance

19. (1) Where a claim is so deposited the person entitled to the lien shall be deemed a purchaser *pro tanto*. R.O. 1958, c. 72, s. 19. Lienholder a purchaser pro tanto

Time for registration

20. (1) Where the lien is for wages under section 6 or 9, the claims may be registered

- (a) at any time within thirty days after the last day's labour for which the wages are payable; or
- (b) at any time within thirty days after the completion of the construction, alteration or repair of the building or erection or after the erecting or placing of the machinery in or towards which, respectively, the labour was performed and the wages earned but so that the whole period shall not exceed sixty days from the last day's labour aforesaid.

(2) The lien shall not be entitled to the benefit of sections 6 and 9 after the said respective periods unless the same is duly registered before the expiration of the said periods so limited.

(3) The lien shall have the same priority for all purposes after as before registration. R.O. 1958, c. 72, s. 20.

Time for registration

21. (1) In other cases the claim of lien may be deposited before or during the progress of the work or within thirty days from the completion thereof or from the supplying or placing the machinery. R.O. 1958, c. 72, s. 21.

PROCEEDINGS TO REALIZE LIEN

Actions to enforce unregistered lien
Time for

22. (1) Every lien that has not been duly deposited under this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime proceedings are instituted to realize the claim under this Ordinance and a certificate thereof, which may be granted by the Court in which or judge before whom the proceedings are instituted, is duly filed in the Land Titles Office of the Yukon Land Registration district. R.O. 1958, c. 72, s. 22.

Action to enforce registered lien

23. (1) Every lien that has been duly deposited under this Ordinance shall absolutely cease to exist after the expiration of ninety days after the work has been completed or materials or machinery furnished or wages earned or the expiry of the period of credit where such period is mentioned in the claim of lien filed unless in the meantime proceedings are instituted to realize the claim under this Ordinance and a certificate thereof, which may be granted by the Court in which or judge before whom the proceedings are instituted, is duly registered in the Land Titles Office of the Yukon Land Registration District. R.O. 1958, c. 72, s. 23.

24. (1) If there is no period of credit or if the date of expiry of the period of credit is not stated in the claim so filed the lien shall cease to exist upon the expiration of ninety days after the work has been completed or materials or machinery furnished unless in the meantime proceedings have been instituted pursuant to section 23. R.O. 1958, c. 72, s. 24.

Time for action if no period of credit or none stated

25. (1) In all cases the lien may be realized in the Court according to the ordinary procedure of the Court. R.O. 1958, c. 72, s. 25.

Lien realizable in Territorial Court

26. (1) Any number of lienholders may join in one action and any action brought by a lienholder shall be taken to be brought on behalf of all the lienholders of the same class who have registered their liens before or within thirty days after the commencement of the action or who within the said thirty days, file in the proper office of the Court from which the writ issued a statement of their respective claims, intituled in or referring to the said action.

Lienholders joining in action Action enuring to class

(2) In the event of the death of the plaintiff or his refusal or neglect to proceed any other lienholder of the same class who has registered his claim or filed his statement in the manner and within the time above limited for that purpose may be allowed to prosecute and continue the action on such terms as are considered just and reasonable by the Court.

Death of plaintiff or refusal to proceed

(3) In case of a sale of the estate and interest charged with the lien the Court may direct the sale to take place at any time after one month from the recovery of judgment and it shall not be necessary to delay the sale for a longer period than is requisite to give reasonable notice thereof.

Sale of land Time for

(4) The Court may also direct the sale of any machinery and authorize its removal.

Machinery

(5) When judgment is given in favour of a lien the Court may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action.

Costs

(6) Where there are several liens under this Ordinance against the same property each class of the lienholders shall, subject to sections 5, 9 and 11, rank *pari passu* for their several amounts against the said property and the proceeds of any sale shall, subject as aforesaid, be distributed amongst such lienholders *pro rata* according to their several classes and rights and they shall respectively be entitled to execution for any balance due to them respectively after said distribution.

Class to rank *pari passu*

Removing lien
on terms

(7) Upon application the Court may receive security or payment into Court in lieu of the amount of the claim and may thereupon vacate the registration of the lien.

Annulling
registration

(8) The Court may annul the said registration upon any other ground.

Summary
hearing and
determination

(9) In any of the cases mentioned in subsections (7) and (8) the Court may proceed to hear and determine the matter of the lien and make such order as seems just, and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof or without just cause claims a larger sum than is found by the Court to be due the Court may order and adjudge him to pay the costs to the other party. R.O. 1958, c. 72, s. 26.

DEATH OF LIENHOLDER—ASSIGNMENT OF LIEN

Death of holder
Assignment of
lien

27. (1) In the event of the death of a lienholder, his right of lien shall pass to his personal representatives and the right of a lienholder may be assigned by any instrument in writing. R.O. 1958; c. 72, s. 27.

DISCHARGE OF LIEN

Discharge of lien

28. (1) A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing acknowledging payment and verified by affidavit and filed, such receipt shall be numbered and entered by the Registrar like other instruments but need not be copied in any book; the fees shall be the same as for registering a claim of lien. R.O. 1958, c. 72, s. 28.

Discharge to be
at the Court
costs

29. (1) When there is a contract for the prosecution of the work as hereinbefore mentioned the registration of all discharges of liens shall be at the cost of the contractor unless the Court otherwise orders. R.O. 1958, s. 72, s. 29.

EXECUTION AGAINST PERSON SUPPLYING MATERIAL

Materials
exempt from
execution

30. (1) Where any mechanic, artisan, machinist, builder, miner, contractor or any other person has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine at the request of and for some other person, such materials shall not be subject to execution or other process to enforce any debt, other than for the purchase thereof, due by the person furnishing or procuring such materials, and whether the same have or not been in

whole or in part worked into or made part of such building or erection. R.O. 1958, c. 72, s. 30.

LIENS ON CHATTELS

31. (1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it, so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists but not afterwards in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law to sell the chattel or thing in respect of which the lien exists on giving one month's notice by advertisement in a newspaper published in the locality in which the work was done, or in case there is no newspaper published in such locality or within ten miles of the place where the work was done, then by posting up not less than five notices in the most public places within the locality for one month, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the residence or last known place of residence, if any, of the owner as the case may be or by mailing the same to him by registered letter if his address is known.

Liens for
improvement of
chattels
Enforcing

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due him and the cost of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. R.O. 1958, c. 72, s. 31.

FORMS

32. The forms in Schedule I shall be deemed sufficient for the purposes specified in the Schedule. R.O. 1958, c. 72, s. 32.

Forms

SCHEDULE I

FORM A
(Section 16)

CLAIM OF LIEN

A.B., (name of claimant) of (here state residence of claimant), (if so, as assignee of state name and residence of original lienholder) claims a lien under the Mechanics Lien Ordinance upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed) in the undermentioned land in respect of the following work (or materials) that is to say: (here give a short description of the work done or materials furnished and for which the lien is claimed) which work was (or is to be) done (or materials furnished) for (here state the name and residence of the person upon whose credit the work is done or materials furnished) on or before the _____ day of _____

The following is the description of the work done (or material or machinery furnished, as the case may be):
(State the work done or material or machinery furnished)

The amount claimed as due (or to become due) is the sum of \$ _____

The following is the description of the land to be charged: *(here set out a concise description of the land to be charged sufficient for the purpose of registration).*

Where credit has been given insert: The said work was done (or materials were furnished) and the period of credit agreed to expired (or will expire) on the _____ day of _____ 19 ____ .

Dated at _____ this _____ day
of _____ A.D. 19 ____ .

(Signature of Claimant)

R.O. 1958, c. 72, Form A.

FORM B
(Section 16)

CLAIM OF LIEN FOR WAGES

A.B. (name of claimant) of (here state residence of claimant) (if so, as assignee of state name and residence of original lienholder) claims a lien under the *Mechanics Lien Ordinance*, upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed) in the undermentioned land in respect of _____ days work performed thereon while in the employment of (here state the name and residence of the person upon whose credit the work was done) on or before the _____ day of _____

The amount claimed as due is the sum of \$ _____

The following is the description of the land to be charged: (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Dated at _____ this _____ day of _____ A.D. 19 _____

(Signature of Claimant)

R.O. 1958, c. 72, Form B.

FORM C
(Section 17)

CLAIM OF LIEN FOR WAGES WHEN SEVERAL CLAIMANTS

The following persons claim a lien under the *Mechanics Lien Ordinance* upon the land of (here state the name and residence of the owner of the land) in respect of wages for labour performed thereon while in employment of (here state name and residence or names and residence of employers of the several persons claiming the lien).

A.B., of (residence) \$ _____ for _____ days wages.

C.D., of _____ \$ _____ for _____ days wages.

E.F., of _____ \$ _____ for _____ days wages.*

The following is the description of the land to be charged: (here set out a concise description of the land to be charged sufficient for the purpose of registration.)

Dated at _____ the _____ day of _____ A.D. 19 _____

(Signatures of the several Claimants)

*[If any of the above named claimants are assignees of the original lienholder that fact must be stated and the name and residence of the original lienholder stated.]

R.O. 1958, c. 72, Form C.

FORM D
(Section 16)

AFFIDAVIT VERIFYING CLAIM

I, *A. B.*, named in the above (*or annexed*) claim do make oath that the said claim is true (*or the said claim so far as it relates to me is true*).

Or,

We *A. B.* and *C. D.*, named in the above (*or annexed*) claim, do make oath and each for himself saith that the said claim, so far as it relates to him, is true.

(Where affidavit is made by agent or assignee, a clause must be added to the following effect: I have full knowledge of the facts set forth in the above or annexed claim).

Sworn before me at
 in the Yukon Territory, }
 this day }
 of A.D. 19 }

Or,

The said *A.B.* and *C.D.* were }
 severally sworn before me at }
 in the Yukon Ter- }
 ritory, this day of }
 A.D. 19 }

Or,

The said *E.F.* was sworn before }
 me at in the }
 Yukon Territory, this }
 day of A.D. 19 }

R.O. 1958, c. 72, Form D.

CHAPTER M-6

MEDICAL PROFESSION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Medical Profession Ordinance*. R.O. 1958, c. 73, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

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

“medical practitioner” means a person who is entitled to practise medicine in the Territory under this Ordinance; “medical practitioner”

“practise medicine” means to offer or undertake by any means or method to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition or to hold oneself out as being able to diagnose, treat, operate or prescribe for any human disease, pain, injury, disability or physical condition; “practise medicine”

“register” means the Medical Register referred to in section 3. R.O. 1958, c. 73, s. 2. “register”

3. (1) The Territorial Secretary shall keep a register, called the Medical 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 Medical Register and he may issue licences to such persons. R.O. 1958, c. 73, s. 3. Medical Register

4. (1) A person who Qualifications for registration

(a) on the 22nd day of November, 1954, was entitled by law to practise medicine in the Territory; or

(b) produces to the Commissioner a certificate from the Registrar of the Medical Council of Canada showing that his name is registered in the *Canadian Medical Register* under the provisions of the *Canada Medical Act*, and satisfies the Commissioner that he is the person named in the certificate and that he is a suitable person;

and is entitled to be registered in the register.

Registration fee (2) Every person who applies for registration in the Medical Register shall, with his application for registration, pay to the Territorial Secretary the prescribed fee. R.O. 1958, c. 73, s. 4; 1963 (2nd) c. 7, s. 1; 1971 (1st) c. 20, s. 15(1).

Annual licence fee 5. 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. 1985, c. 73, s. 5; 1971 (1st) c. 20, s. 15(2).

Duration of licences 6. (1) A licence expires on the 31st day of March next following the day upon which it came into force. R.O. 1958, c. 73, s. 6.

PERMITS

Permits to members of armed forces of Canada or visiting forces 7. (1) The Commissioner may issue a permit to a member of any of the armed forces of Canada or of a visiting force as defined in the *Visiting Forces Act* to practise medicine among the persons, in the parts of the Territory, for the period of time and upon the terms and conditions the Commissioner may prescribe, and for the purposes of this Ordinance, a holder of a permit issued under this section shall, when practising medicine pursuant to this section, be deemed to be the holder of a licence.

No fee to be charged for permit under subsection (1) (2) No fee shall be charged for a permit issued under subsection (1). R.O. 1958, c. 73, s. 7.

Temporary permits 8. (1) The Commissioner may after consultation with the Yukon Medical Association issue a permit to practise medicine in such parts of the Territory upon payment of such fees and upon such terms and conditions as the Commissioner may specify in the permit to any person who

(a) has completed at least a four years' course of study in medicine or surgery or both at a school of medicine or surgery of recognized standing and has received a diploma or certificate of qualification from such school, and

(b) satisfies the Commissioner that he is the person to whom the diploma or certificate was issued, is of good character and is qualified from the standpoint of his professional proficiency to practise as a medical practitioner, physician or surgeon.

Duration of permit (2) A permit issued under this section may be for the period of time the Commissioner may specify in the permit

and may after consultation with the Yukon Medical Association be renewed by the Commissioner from time to time, but no person shall be permitted to practice medicine pursuant to this section for more than four years.

(3) A person who holds a permit issued under this section shall, when practising medicine pursuant to this section, be deemed to be the holder of a licence. 1963 (2nd) c. 7, s. 2; 1964 (1st) c. 11, s. 1. Holder of permit deemed holder of licence

PRACTICE OF MEDICINE

9. (1) No person is entitled to recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising medicine unless he holds a licence at the time the services are rendered or the materials or appliances are provided. R.O. 1958, c. 73, s. 8. Practice limited to holders of licences

10. (1) A person who holds a licence is entitled to practise medicine in the Territory, and to bring an action before a judge for the recovery of reasonable charges for professional aid, advice and visits and costs of any medicine, materials or appliances supplied by him to his patients. R.O. 1958, c. 73, s. 9. Licensee's right to practise and to recover fees

11. (1) No action shall be brought in respect of any negligent act or omission or malpractice on the part of a medical practitioner in connection with professional services rendered by him unless it is commenced within two years from the day when, in the matter complained of, the professional services terminated. R.O. 1958, c. 73, s. 10. Limitation of actions for malpractice

OFFENCES AND PENALTIES

12. (1) A person who is not the holder of a licence under this Ordinance and who Offence for unlicensed practice
(a) publicly or privately practises medicine ;
(b) appends to his name the title of doctor, surgeon or physician 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 medical practitioner ; 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 medical practitioner ;
commits an offence.

Penalty (2) A person who commits an offence against this Ordinance is 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.

Exceptions to subsection (1) (3) Paragraph (1)(b) does not affect the right of a dentist, duly licensed to practice dentistry in the Territory under the *Dental Profession Ordinance*, to append the title doctor or dental surgeon to his name, nor the right of a veterinary surgeon to append the title doctor or veterinary surgeon to his name, nor the right of any doctor of divinity or philosophy or otherwise duly qualified by a degree from a recognized university to append the word doctor to his name. R.O. 1958, c. 73, s. 11.

Time for prosecution 13. (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. 73, s. 12.

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. 73, s. 13.

INVESTIGATION AND REMOVAL

Removal for nonpayment 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 respecting 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 allowing the name of the person, on whose behalf they are paid, to be 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 in 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. 73, s. 14.

16. (1) The Commissioner may appoint two or more persons, who are registered in the Canadian Medical Register as duly qualified medical practitioners to act as a Board of Inquiry for the purpose of investigating any complaint made against a person practising as a medical practitioner 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 medical practitioner.

Board of Inquiry

(2) Without restricting the generality of the expression "improper conduct" a person practising medicine is guilty of improper conduct who

Meaning of "improper conduct"

- (a) abandons a patient in danger without giving him an opportunity to retain the services of another medical practitioner;
- (b) knowingly gives a false certificate respecting birth, death, notice of disease, state of health, vaccination or disinfection or respecting any matter relating to life, health or accident insurance;
- (c) divides with another person, who is not a partner, any fees or profits resulting from consultations, medical attention or surgical operations without the patient's knowledge and consent;
- (d) is addicted to the excessive use of intoxicating liquors or the excessive or habitual use of opiates or narcotics; or
- (e) impersonates another medical practitioner.

(3) 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.

(4) 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

(5) Where the Board of Inquiry finds that a complaint is frivolous or vexatious, it may cause to be paid to the Ter-

Frivolous and vexatious complaint

ritorial Secretary out of the deposit for security mentioned in subsection (4) 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.

Quorum

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

Findings and recommendations

(7) 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 the person complained against

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

Offence

(9) 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 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,

commits an offence. R.O. 1958, c. 73, s. 15.

Appeal to judge

16. (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.

(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. 73, s. 16.

Powers of judge

18. (1) Where a medical practitioner 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 practitioner in writing and note the reprimand in the register;
- (b) in the case of a fine, make an order fining the practitioner, 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 practitioner 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. 73, s. 17.

Commissioner to enforce order of judge

19. (1) A medical practitioner whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 17 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 under subsection 16(2), apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

Order by
Commissioner
or judge

(2) The Commissioner or a judge may, upon application under subsection (1), order the Territorial Secretary to reinstate on the register a medical practitioner whose name is registered in the Canadian Medical 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.

Territorial
Secretary to
reinstate

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate the medical practitioner 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. 73, s. 18.

APPLICATION

Exceptions

- 20.** (1) Nothing in this Ordinance applies to or affects
- (a) a duly qualified medical practitioner of any province or country meeting in consultation in the Territory with a medical practitioner of the Territory;
 - (b) the furnishing of first aid or temporary assistance in cases of emergency;
 - (c) the domestic administration of family remedies;
 - (d) the practising by any person of the religious tenets of his church or religion without pretending a knowledge of medicine or surgery, unless he violates any laws regulating or with respect to contagious diseases or sanitary matters;
 - (e) the manufacture, fitting or selling of artificial limbs or similar appliances;
 - (f) the practice of chiropractic by a chiropractor duly licensed under the *Chiropractic Ordinance*;
 - (g) the practice of dentistry by a dentist duly licensed under the *Dental Profession Ordinance*;
 - (h) the practice of optometry by an optometrist duly licensed under the *Optometry Ordinance*;
 - (i) the practice of pharmacy by a pharmaceutical chemist duly licensed under the *Pharmaceutical Chemists Ordinance*;
 - (j) the practice of nursing by a nurse; or
 - (k) a medical practitioner, physician or surgeon employed by the Government of Canada who, during the course of his duties as an employee of the Government of Canada, practises medicine in the Territory, unless he practises medicine on his own behalf in the Territory outside the course of his duties as an employee of such Government. R.O. 1958, c. 73, s. 19.

21. (1) No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the Territory or in any hospital or other charitable institution, unless he is registered under this Ordinance. R.O. 1958, c. 73, s. 20.

No person appointed as medical officer in public service unless registered

MEANING OF "DULY QUALIFIED MEDICAL PRACTITIONER"

22. (1) Where the words "duly qualified medical practitioner" or "legally qualified medical practitioner" or any other words implying legal recognition of a person as a medical practitioner are used in any law of the Territory, they shall, in so far as that law applies to the Territory, be construed to mean

Meaning of "duly qualified medical practitioner"

- (a) a person who holds a licence under this Ordinance; and
- (b) a person referred to in paragraph 20(1)(k). R.O. 1958, c. 73, s. 21.

OTHER ORDINANCES

23. (1) Nothing in the *Dental Profession Ordinance* or the *Pharmaceutical Chemists Ordinance* shall be construed to prohibit a medical practitioner from doing, in the course of administering medical aid or treatment, anything for which a licence is required under any of the said Ordinances or from doing anything in an emergency, to attempt to relieve the pain or suffering of a person or animal. R.O. 1958, c. 73, s. 22.

Effect of other Ordinances

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

CHAPTER M-7

MENTAL HEALTH ORDINANCE

1. This Ordinance may be cited as the *Mental Health Ordinance*. 1971 (1st) c. 11, s. 1. Short title

2. (1) In this Ordinance Definitions

“court” means a justice of the peace or a judge of the Territorial Court, as the case may be; “court”

“mentally disordered person” means a person, “mentally disordered person”

(i) in whom there is such a condition of arrested or incompleated development of mind, whether arising from inherent causes or induced by disease or injury, or

(ii) who is suffering from such a disorder of the mind, that he requires care, supervision and control for his protection and the protection of his property and has been so found by the court;

“Public Administrator” means the person appointed to that office in the manner authorized by law. 1971 (1st) c. 11, s. 2. “Public Administrator”

3. (1) An application under this Ordinance may be made to a justice of the peace having jurisdiction in the area in which a person alleged to be mentally disordered resides or may be, or a judge of the Territorial Court, either of whom has jurisdiction to entertain the application and make such orders under this Ordinance as may be necessary. Jurisdiction

(2) Where an application is made to a justice of the peace, he shall, having regard to the urgency with which the application should be dealt with for the safety of life and property, exercise jurisdiction under this Ordinance or direct that it should be made to a judge. 1971 (1st) c. 11, s. 3. Justice of the peace may deal with application or refer it to higher court

4. (1) Any person may make an application to the court, supported by his affidavit giving reasons therefor, alleging that a person is or is suspected and believed to be a mentally disordered person and requesting an order declaring that such person is a mentally disordered person, respecting his Application

custody or commitment and respecting the management of his property.

Warrant for hearing

(2) Subject to a direction pursuant to section 3, the court may, if satisfied that the application and supporting affidavit warrant a hearing, issue a warrant in the prescribed form to apprehend the person alleged to be mentally disordered and bring him before the court for a hearing.

Detention without warrant

(3) Any person apparently mentally ill or mentally defective and conducting himself in a manner which may be dangerous to himself or others, may be apprehended without a warrant by a peace officer, and detained until the question of his mental condition is determined by the court. 1971 (1st) c. 11, s. 4.

Evidence at hearing

5. (1) The court shall, at the hearing, hear evidence concerning,

- (a) the alleged mental disorder, including the evidence of two medical practitioners;
- (b) the residence, name, age and other particulars of the person alleged to be mentally disordered;
- (c) the means of support of the person alleged to be mentally disordered and the property, both real and personal, of the person alleged to be mentally disordered;
- (d) his marital status and dependents, if any; and
- (e) such other matters as the court deems relevant to the case,

but where the evidence mentioned in paragraph (a) is not available the court may dispense with such evidence if having regard to all the circumstances of the case it is proper to do so.

Powers at hearing

(2) The court has full power to compel attendance of witnesses, the production of documentary or other evidence and take any other steps it deems necessary for a full and proper hearing. 1971 (1st) c. 11, s. 5.

Dismissal of application

6. (1) Where the court is not satisfied that the person alleged to be mentally disordered is mentally disordered, it shall order dismissal of the application and make such order as to costs or otherwise as it deems just in the circumstances.

Where found mentally disordered

(2) Where the court is satisfied that the person alleged to be mentally disordered is mentally disordered, it shall make an order to that effect, and shall commit the person, by warrant in the prescribed form, to the custody of the Royal

Canadian Mounted Police to remain in custody until the pleasure of the Commissioner is known or the person is discharged by law.

(3) Where an order and warrant are made under subsection (2), the court shall cause copies thereof and of the evidence produced before it to be sent, as soon as possible, to the Commissioner. To notify the Commissioner

(4) The Commissioner may make any order he deems advisable as to the future custody of the mentally disordered person or may, in his discretion, direct that the hearing be re-opened or that a new hearing be held or that any other inquiry or steps be taken that he deems advisable. 1971 (1st) c. 11, s. 6.

7. (1) Where the court declares that a person is a mentally disordered person, it may appoint one or more trustees to manage his property, and if no trustees are appointed, the Public Administrator shall manage his property as an estate. Management of estate

(2) In considering the appointment of a trustee, the court shall first consider whether the spouse of the mentally disordered person is a fit and proper person to be appointed as sole trustee or jointly with another person.

(3) Subject to any further order by the court, or by the Commissioner, the Public Administrator or the trustees appointed under subsection (1), as the case may be shall have full power to manage, administer and care for the estate of a mentally disordered person and may sell, purchase, mortgage, lease, repair or do any matter or thing and take any proceeding they deem necessary for this purpose. Powers of Public Administrator

(4) The Public Administrator or the trustees appointed under subsection (1), as the case may be, shall carry out any order of the court or of the Commissioner respecting an estate of a mentally disordered person and may apply to the court or the Commissioner for directions as to the performance of their duties. To carry out court orders

(5) The Public Administrator shall file once each year with the Commissioner an accounting of all assets in each continuing estate under his control.

(6) The Public Administrator, or any person appointed as trustee under subsection (1), is liable to render an account of his management of an estate and to provide any affidavits the Commissioner may require. 1971.(1st) c. 11, s. 7.

Discharge of
mentally
disordered
person

8. (1) The Commissioner may order or any person may apply to a judge of the Territorial Court for an order that a mentally disordered person be declared to be no longer mentally disordered and be discharged by law and respecting any other matters respecting his return from custody and the return of his estate to him as may be deemed just and proper. 1971 (1st) c. 11, s. 8.

9. (1) The Commissioner may,

- (a) make any regulations he deems necessary to carry out the provisions of this Ordinance,
- (b) prescribe forms. 1971 (1st) c. 11, s. 9.

CHAPTER M-8

MINERS' LIEN ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Miners' Lien Ordinance*. R.O. 1958, c. 74, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

"mine" or "mining claim" means a mine, claim or mineral claim as defined in the *Yukon Quartz Mining Act* and the *Yukon Placer Mining Act*; "mine" or "mining claim"

"miner" means any person working upon a mine or mining claim or in connection therewith; "miner"

"owner" includes a person having any estate or interest in a mine or mining claim in respect of which work or service is done or materials are furnished, at whose request and upon whose credit or on whose behalf or with whose consent or for whose direct benefit any such work or service is performed or materials are placed or furnished, and all persons claiming under him whose rights are acquired after the work or service or furnishing of materials in respect of which the lien is claimed is commenced; "owner"

"registration" means the filing or depositing of an instrument with the Mining Recorder. R.O. 1958, c. 74, s. 2. "registration"

LIEN FOR WORK AND MATERIALS

3. (1) Any person who performs any work or service in respect of or places or furnishes any material to be used in the mining or working of any placer or quartz mine or mining claim shall, by virtue thereof, have a lien for the price of such work, service or material upon the minerals or ore produced from and the estate or interest of the owner in the mine or mining claim in or in respect of which such work or service is performed or material furnished, limited however in amount to the sum justly due to the person entitled to the lien. Persons furnishing materials on quartz or placer mining claims to have lien on product of mine and interest of claim holder

(2) The lien shall attach upon the estate or interest of the owner and of all persons having any interest in the mine or mining claim and all appurtenances thereto, the minerals or Lien to attach as against owner and others interested

ores produced therefrom, the land occupied thereby or enjoyed therewith and the chattels, equipment and machinery in, upon or used in connection with such mine, mining claim or land.

To take effect as against subsequent mortgages

(3) Upon registration, the lien shall attach and take effect as against persons purchasing and mortgagees and other encumbrancers registering their mortgages or encumbrances subsequent to the commencement of performance of work or service or furnishing of material in respect of which the lien is claimed. R.O. 1958, c. 74, s. 3.

Priority of lien

4. (1) Any lien registered under this Ordinance shall, as to one-half of the output from the mine or mining claim in respect of which the lien is claimed, take priority over all mortgages and encumbrances registered subsequent to the 16th day of November, 1957. R.O. 1958, c. 74, s. 4.

REGISTRATION OF LIEN

5. (1) A claim of lien may be deposited in the office of the mining recorder for the district in which the mine or mining claim is situate and shall state

- (a) the name and residence of the claimant and of the owner of the property to be charged and of the person for whom and upon whose credit the work or service is performed or material furnished and the time or period within which the same was or was to be performed or furnished;
- (b) the work or service performed or material furnished;
- (c) the sum claimed as due or to become due;
- (d) the description of the property to be charged; and
- (e) the date of the expiring of the period of credit agreed to by the lienholder for payment for his work, service or material where credit has been given.

Claim to be verified

(2) Such claim shall be verified by the affidavit of the claimant or his agent having a personal knowledge of the facts sworn to. R.O. 1958, c. 74, s. 5.

Number of claims

6. (1) A claim may include the claims of any number of miners, labourers or other persons who have performed work or supplied materials who may choose to unite their claims in a case; each claimant shall verify his claim by affidavit but need not repeat the facts set out in the claim. R.O. 1958, c. 74, s. 6.

7. (1) The claim may be registered at any time before the expiration of six months from the last day upon which the work or service or material which is the subject matter of the claim, was performed or furnished or where credit has been given from the time fixed for payment. R.O. 1958, c. 74, s. 7. Registration

8. (1) Every lien that has not been duly deposited under the provisions of this Ordinance shall cease to exist on the expiration of the time previously limited for the registration thereof. R.O. 1958, c. 74, s. 8. Failure to deposit lien

PROCEEDINGS TO REALIZE LIEN

9. (1) Every lien that has been duly deposited under this Ordinance shall cease to exist upon the expiration of sixty days after deposit unless proceedings are instituted to realize the claim and a certificate granted by the Court, is duly filed in the office of the mining recorder. R.O. 1958, c. 74, s. 9. When lien ceases to exist

10. (1) Proceedings to enforce any lien may be commenced by an originating summons which will set out the grounds upon which the lien is claimed. How enforced

(2) A summons shall be granted upon the application of the lienholder supported by his affidavit setting forth the facts of his claim. R.O. 1958, c. 74, s. 10.

11. (1) Upon the return of the summons the judge, upon being satisfied that due notice has been given to all persons interested, may adjudicate upon the liability of the owner or other person in respect of the claim and may make any order in the matter including allowance of costs of the proceedings that seems meet. R.O. 1958, c. 74, s. 11. Court may fix liability

12. (1) Any number of lienholders may join in one summons and any proceedings brought by a lienholder shall be taken to be brought on behalf of all the lienholders who have duly registered their liens before or within sixty days after the commencement of the proceedings or who, within a period of sixty days, file with the Clerk of the Court a statement of their respective claims intituled in or referring to such proceedings. Actions for liens united

(2) In the event of the death of the claimant to whom a summons has been granted or his refusal or neglect to proceed any other lienholder who has duly registered his claim or filed his statement in the manner and within the time limit prescribed by this section may be allowed to continue Death of claimant

and prosecute the proceedings on any terms that are considered, by the judge, to be just and reasonable.

Sale of estate or interest or material, etc.

(3) If the minerals or ore produced from the mine or mining claim against which the lien is registered are not sufficient to satisfy the liens so registered, the judge may direct a sale of any estate or interest or any material, equipment, machinery and chattels charged with the lien to take place at any time after three months from the recovery of judgment.

Costs

(4) In any case in which judgment is given in favour of any claimant the judge may order payment to the claimant of his costs incidental to registration of his claim of lien.

Vacating registration

(5) Upon application the judge may at any time after the expiration of sixty days from the commencement of the proceedings receive payment or security satisfactory to him for payment of a sum sufficient to pay all claims then duly registered as liens or filed with the Clerk of the Court in accordance with subsection (1), together with a sum estimated by the judge to be sufficient to pay all costs mentioned in subsection (4), and the judge may then vacate the registration of any lien then registered against the mine or mining claim which is the subject matter of the proceedings.

(6) Applications may be made by originating summons to the judge at any time by the owner or any person having an estate or interest in the mine or mining claim against which any lien is registered that such lien be vacated, and the judge may upon the application make any order that to him seems meet. R.O. 1958, c. 74, s. 12.

DEATH OF LIENHOLDER

Death of lien holder

13. (1) In the event of the death of a lienholder his right of lien shall pass to his personal representatives and the right of a lienholder may be assigned by any instrument in writing. R.O. 1958, c. 74, s. 13.

DISCHARGE OF LIEN

14. (1) A lien may be discharged by a receipt signed by the claimant or his agent, verified by affidavit and filed with the Clerk of the Court; such a receipt shall be numbered and entered like other instruments but need not be copied in any book. R.O. 1958, c. 74, s. 14.

FEEES

15. (1) The Commissioner may prescribe the fees for registering any instrument under this Ordinance. R.O. 1958, c. 74, s. 15; 1971 (1st) c. 20, s. 16.

FORMS

16. (1) The forms set out in Schedule I shall be deemed sufficient for the purposes specified in such Schedule I. R.O. 1958, c. 74, s. 16.

SCHEDULE I

FORM A

ORIGINATING SUMMONS

In the Territorial Court of
the Yukon Territory

(Here insert style of cause or matter)

Let all parties concerned attend in Court at _____ on
the _____ day of _____ on the hearing of an application
on the part of _____ that *(here set out the object*
of the application).

If you do not attend either in person or by agent at the time
and place above mentioned such order will be made in your
absence as to the Court seems just and expedient.

.....
Judge

This summons was taken
out by
for the applicant

R.O. 1958, c. 74, Form A.

FORM B

CLAIM OF LIEN

A.B., *(name of claimant)* of *(here state residence of claimant)*,
(if as assignee, state name and residence of original lienholder)
claims a lien under the *Miners' Lien Ordinance* upon the estate
or interest of *(here state the name and residence of the entrant or*
lessee of the mine or mining claim upon which the lien is claimed)
in the undermentioned mine or mining claim in respect of the
following work done *(or materials furnished)* *(here give a short*
description of the work done or materials furnished for which the
lien is claimed) which work was *(or is to be) done (or materials*
furnished) for *(here state the name and residence of the person upon*
whose credit the work is done or materials furnished) on or before
the _____ day of _____

The amount claimed as due *(or to become due)* is the sum
of \$ _____

The following is the description of the mine or mining claim to be charged: *(here set out a concise description of the mine or mining claim to be charged, sufficient for the purpose or registration).*

(When credit has been given, insert: "The said work was done (or materials were furnished) and the period of credit agreed to expired (or will expire on the _____ day of _____ 19__.)"

Dated at _____ this _____ day of _____ A.D. 19__

.....
(Signature of claimant)

R.O. 1958, c. 74, Form B.

FORM C

CLAIM OF LIEN FOR WAGES

A.B., *(name of claimant)* of *(here state residence of claimant)* *(if as assignee, state name and residence of original lienholder)* claims a lien under the *Miners' Lien Ordinance*, upon the estate of *(here state the name and residence of the owner of the mine or mining claim upon which the lien is claimed)* in the undermentioned mine or mining claim in respect of _____ day's work performed thereon while in the employment of *(here state the name and residence of the person upon whose credit the work is done)* on or before the day of _____

The amount claimed as due is the sum of \$ _____

The following is the description of the mine or mining claim to be charged: *(here set out a concise description of the mine or mining claim to be charged, sufficient for the purpose of registration.)*

Dated at _____ this _____ day of _____ A.D. 19__

.....
(Signature of claimant)

R.O. 1958, c. 74, Form C.

FORM D

CLAIM OF LIEN FOR WAGES WHEN SEVERAL CLAIMANTS

The following persons claim a lien under the *Miners' Lien Ordinance* upon the mine or mining claim of (*here state the name and resident of the entrant or lessee of the mine or mining claim*) in respect of wages for labour performed thereon while in employment of (*here state name and residence or names and residences of employers of the several persons claiming the lien*).

A.B., of (<i>residence</i>)	\$	for	days' wages.
C.D., of	\$	for	days' wages.
E.F., of	\$	for	days' wages.

The following is the description of the mine or mining claim to be charged: (*here set out a concise description of the mine or mining claim to be charged, sufficient for the purpose of registration*).

Dated at this day of A.D. 19

.....
(*Signatures of the several claimants*)

(*If any of the above named claimants are assignees of the original lienholder that fact must be stated and the name and residence of the original lienholder stated.*)

R.O. 1958, c. 74, Form D.

FORM E

AFFIDAVIT VERIFYING CLAIM

I, A.B., named in the above (or annexed) claim do make oath and say that the said claim is true (or the said claim so far as it relates to me is true.)

We, A.B., and C.D., named in the above (or annexed) claim, do make oath and each for himself says that the said claim, so far as it relates to him is true.

(Where affidavit is made by agent or assignee, a clause must be added to the following effect: "I have full knowledge of the facts set forth in the above annexed claim.")

Sworn before me at
in the Yukon Territory, this
day of
A.D. 19
or

The said A.B., and C.D. were
severally sworn before me at
in the Yukon
Territory, this day of
A.D. 19

or

The said E.F., was sworn
before me at
in the Yukon Territory
this day of
A.D. 19

R.O. 1958, c. 74, Form E.

CHAPTER M-9

MINING SAFETY ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Mining Safety Ordinance*. R.O. 1958, c. 75, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance, Definition

“agent” means a person having on behalf of the owner, the charge and control of a mine, and includes the general manager; “agent”

“certificate” means a miner’s medical certificate or an initial medical certificate; “certificate”

“dust exposure occupation” means “dust exposure occupation”

- (i) any employment underground in a mine,
- (ii) any employment at the surface of a mine in ore or rock crushing operations in which the ore or rock being crushed is not constantly kept in a moistened or wet condition by the use of water or chemical solutions, or
- (iii) any employment at the surface of a mine that is designated by an inspector as a dust exposure occupation;

“initial medical certificate” means a certificate issued by a medical officer, under section 4, to a person who is not qualified to receive a miner’s medical certificate; “initial medical certificate”

“inspector” means a duly qualified person appointed or authorized to act as such by the Commissioner under this Ordinance; “inspector”

“machinery” includes steam and other engines, boilers, furnaces, milling and crushing apparatus, hoisting equipment, pumping equipment, chains, ore trucks, tramways, tackle, blocks, ropes, tools and all other appliances used in, about or in connection with a mine; “machinery”

“manager” means the person in immediate charge of a mine; “manager”

- "medical officer" "medical officer" means a person who is entitled to be or is registered pursuant to the *Canada Medical Act* or who is the holder of a subsisting permit issued pursuant to section 7 or 8 of the *Medical Profession Ordinance*;
- "mine" "mine" includes an opening, quarry, or excavation in, or working of, the ground for the purpose of searching for, winning, opening up, removal of or proving any mineral bearing substance, and any ore body, mineral deposit, stratum, soil, rock, quartz, limestone, bed of earth, clay, sand or gravel or place where mining is or may be carried on and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine and any roastyard, smelting furnace, mill, work or place used for or in connection with crushing, reducing smelting, refining or treating any mineral-bearing or other substances described in this paragraph;
- "mine rescue superintendent" "mine rescue superintendent" means a person appointed as such by the Commissioner under this Ordinance;
- "miner's medical certificate" "miner's medical certificate" means a certificate issued by a medical officer under section 15 to a person respecting employment in a dust exposure occupation;
- "mining" "mining" includes any mode or method of working whereby any soil, earth, rock, stone, quartz, clay, sand or gravel may be disturbed, removed, carted, carried, washed, sifted, crushed, roasted, smelted, refined or dealt with for the purpose of obtaining any minerals or metal therefrom, whether the same may have been previously disturbed or not, and all operations and workings in a mine;
- "owner" "owner" means a person, mining partnership or corporation, being the immediate proprietor, lessee or occupier of a mine or any part thereof or any land located or leased as mining lands, and includes his or its agent, but does not include a person, mining partnership or corporation merely receiving a royalty, rent or fine from a mine or mining lands;
- "Registrar" "Registrar" means a person appointed as Registrar of Miner's Medical Certificates;
- "shaft" "shaft" means a vertical or inclined excavations in a mine extending downward from the surface or from some interior point through which men or materials are transported, and includes a pit or winze;
- "shift" "shift" means a number of employees whose hours for beginning and terminating work in a mine are the same or

approximately the same. R.O. 1958, c. 75, s. 2; 1968 (2nd) c. 9, s. 1; 1968 (4th) c. 14, s. 1.

ADMINISTRATION

3. (1) The Commissioner may

Appointments

- (a) appoint duly qualified persons as inspectors or authorize other duly qualified persons to act as such for the purposes of this Ordinance,
- (b) designate an inspector to be a chief inspector or district inspector,
- (c) appoint a duly qualified person as Registrar of Miner's Medical Certificates for the purposes of this Ordinance, and
- (d) appoint persons as mine rescue superintendents for the purposes of this Ordinance. R.O. 1958, c. 75, s. 3; 1968 (2nd) c. 9, s. 2; 1968 (4th) c. 14, s. 2; 1971 (3rd) c. 8, s. 1.

4. (1) The duties and powers of inspectors, mine rescue superintendents and medical officers are those hereinafter described in this Ordinance. R.O. 1958, c. 75, s. 4; 1968 (4th) c. 14, s. 3.

Power and duties

5. (1) An inspector shall

Powers and duties of inspector

- (a) make such examinations and inquiries as he deems necessary to ascertain whether this Ordinance and any rules and regulations made thereunder are being complied with;
- (b) give notice, in writing, to the manager of the particulars of any matter, thing or practice in, about or concerning a mine or mining that, in the opinion of the inspector, is dangerous, defective or contrary to this Ordinance or the rules and regulations made thereunder, and require the matter, thing or practice to be remedied within the time named in the notice;
- (c) enter, inspect and examine any mine or portion thereof by day or night in any manner that will not unreasonably or unnecessarily impede or obstruct the working of the mine;
- (d) order the immediate cessation of work in and removal of persons from a mine or portion thereof that he considers unsafe or require such precautions as he deems necessary to be taken before persons are allowed to return to or continue working therein;
- (e) exercise such other powers as he may deem necessary for ensuring the health and safety of persons employed in or about a mine; and

(f) do all other acts or things that may be otherwise prescribed for him in this Ordinance or in any rules made hereunder.

Power to
summon wit-
nesses, etc.

(2) An inspector has power to compel the attendance of witnesses, require the production of any document, book, paper, article or thing relevant to an examination or inquiry, administer oaths and examine any person upon oath, affirmation or otherwise and do all other necessary acts or things for the purposes of conducting an examination or inquiry under this Ordinance.

Reports to
Commissioner

(3) An inspector shall

(a) immediately upon the completion of an examination or inquiry made by him, submit a report thereof to the Commissioner; and

(b) make such other reports of his activities as the Commissioner may require.

Special reports

(4) The Commissioner may direct an inspector to make a special report concerning

(a) an accident that resulted in the death or injury of any person; or

(b) the condition of a mine. R.O. 1958, c. 75, s. 5; 1968 (4th) c. 14, s. 4.

Powers of
Commissioner

6. (1) The Commissioner may

(a) prescribe such forms and notices as he deems necessary for the carrying out of this Ordinance;

(b) prescribe the nature of examinations to be made by medical officers in connection with the issuance of miners' certificates;

(c) make rules for the purpose of ensuring the safe operation of mines to be complied with by all persons in or around a mine;

(d) make rules respecting any particular mine therein named;

(e) suspend the operation of any rule on the written recommendation of an inspector, either with respect to any period of time or with respect to any particular mine;

(f) approve, alter, suspend or cancel any rule made by an inspector or a manager; and

(g) make rules for the carrying out of this Ordinance.

(2) Every rule or order made by the Commissioner under the authority of this Ordinance shall be tabled at the first

meeting of the Territorial Council following the making of such rule or order. R.O. 1958, c. 75, s. 6.

7. (1) An inspector may suspend or vary the operation of any rule made under this Ordinance and upon being satisfied that it is advisable to do so, where he has received an application in writing, from the owner or manager of a mine for that purpose giving reasons therefor.

Suspension of rules by inspector

(2) Suspension or variation of a rule by an inspector under subsection (1) shall cease to have effect after two months have elapsed from the date of such suspension or variation, unless sooner cancelled or confirmed by the Commissioner.

Lapse of suspension

(3) An inspector who suspends or varies a rule under this section shall forthwith report the particulars thereof to the Commissioner.

Report

(4) Where, in the opinion of an inspector, further expert advice or assistance is required, he may procure such advice or assistance at the expense of the owner concerned, except that in no such case shall the liability of the owner concerned to pay such expense exceed five hundred dollars. R.O. 1958, c. 75, s. 7.

Where advice and assistance required

8. (1) Subject to the approval of the Commissioner and an inspector, the manager of a mine may make rules, not inconsistent with this Ordinance or any rule made under it, for the safe operation of a mine under his management and for the maintenance of order and discipline in the mine.

Posting of rules

(2) Upon approval by the Commissioner and an inspector of any rule made under subsection (1), the rule shall be posted in a conspicuous place in or about the mine by the manager of the mine and shall come into force seven days after it is so posted or at such earlier time as the Commissioner may direct. R.O. 1958, c. 75, s. 8; 1968 (4th) c. 14, s. 5.

9. (1) The manager of a mine and every foreman, shift boss, mine captain and department head thereof shall take all reasonable measures to enforce this Ordinance and the rules made thereunder and to ensure this observance by all employees of the mine or those under his charge, as the case may be, and all employees in a mine shall take all necessary and reasonable measures to carry out their duties in accordance with those provisions of this Ordinance and the rules that are applicable to the work on which they are engaged. R.O. 1958, c. 75, s. 9.

Duty of manager, foreman, etc., to enforce Ordinance

EMPLOYMENT IN AND ABOUT MINES.

Restriction as to age 10. (1) No male person under the age of eighteen years shall be employed underground or at the working face of any open cut workings, pit or quarry, and no male person under the age of sixteen years shall be employed in or about a mine.

Female employment (2) No female person shall be employed in underground work in any mine.

(3) Subsection (2) does not apply to a female

- (a) holding a position of management who does not perform manual work ;
- (b) employed in health services ;
- (c) who, in the course of her studies, spends a period of training in the underground parts of a mine ; and
- (d) who may occasionally have to enter the underground parts of a mine for the purpose of a non-manual occupation.

Blasting operations (4) Except as provided in the *Blasting Ordinance*, no person shall conduct any blasting operation requiring the use of explosives unless he is the holder of a permit issued under that Ordinance. R.O. 1958, c. 75, s. 10 ; 1968 (4th) c. 14, s. 6.

Hours of work 11. (1) Except as otherwise provided in this section, no person shall

- (a) remain or be permitted to remain underground in any mine ; or
- (b) operate or be permitted to operate, either on the surface or underground, any hoisting engine in a shaft, for more than eight hours in any twenty-four hours, which eight hours shall be computed from the time he enters the mine to the time he leaves the mine.

Exemption for emergency, etc. (2) Subsection (1) does not apply

- (a) to a foreman, pumpman, cagetender or any person engaged solely in surveying or measuring ;
- (b) in cases of emergency where life or property is in danger ; or
- (c) in cases where repair work is necessary.

Exemption for hoistmen where one absent (3) Where one of the regular hoistmen is absent from duty and no competent substitute is available, the remaining hoistmen may work extra time not exceeding

- (a) four hours each in any consecutive twenty-four hours, or

(b) with the approval of an inspector, eight hours each in any consecutive forty-eight hours, for a period not exceeding ten consecutive days.

(4) Where work at a mine or in any particular shaft is not carried out continuously on a three shift daily basis, a hoistman may work the extra time necessary for hoisting or lowering, at the beginning and end of each shift, the workmen employed on the shift. R.O. 1958, c. 75, s. 11; 1968 (4th) c. 14, s. 7.

Exemption for hoistmen where non-continuous shifts

HOISTMEN

12. (1) No person under the age of twenty-one years shall operate or be permitted to operate any hoisting engine at a mine when persons are being carried.

Age

(2) No person shall operate or be permitted to operate any hoisting engine in a mine during any time that his ability is impaired by an intoxicant or drug.

Prohibition where ability impaired

(3) No person who has not had adequate experience on a reversing hoisting engine shall operate or be permitted to operate any hoisting engine at a mine when persons are being carried.

Experience required

(4) Where a hoisting engine is operated at a mine when persons are being carried or for a purpose designated by an inspector to be within this section, no person shall operate or be permitted to operate it unless he is the holder of a valid and subsisting medical certificate issued by a medical officer, certifying that such person has been examined and is not suffering from defective sight, hearing or other physical or mental infirmity or illness in any degree that would interfere with the effective discharge of his duties.

To hold medical certificate

(5) Medical certificates are valid only for six months after their dates of issue, unless sooner cancelled by a medical officer.

Duration of certificates

(6) Medical certificates shall be kept on file by the manager of the mine in which the workmen concerned are employed and shall be made available to an inspector upon request and a record of the medical certificates of hoistmen operating in a hoist room shall be kept posted up therein showing the name of each hoistman and the date of his certificate. R.O. 1958, c. 75, s. 12.

Record of certificates

DUST EXPOSURE OCCUPATIONS

Miner's certificate required

13. (1) Subject to subsection (2), no person shall engage in or be permitted to engage in a dust exposure occupation unless he is the holder of a valid and subsisting certificate.

Exemption to requirements of certificate

(2) Notwithstanding subsection (1), a person who has undergone a medical examination in accordance with this Ordinance and who has not, as a result of that examination, been refused a certificate or renewal may engage in a dust exposure occupation for a period of not more than thirty days. R.O. 1958, c. 75, s. 13; 1968 (4th) c. 14, s. 8.

Application

14. (1) Every person who does not hold a certificate and who intends to engage in a dust exposure occupation shall undergo a medical examination that shall be conducted by a medical officer.

Initial medical certificate

(2) A medical officer who conducts an examination in accordance with subsection (1) shall issue an initial medical certificate to the person examined if he is satisfied that the person examined is free from disease of the respiratory organs and is otherwise fit for employment in a dust exposure occupation.

Duration of initial medical certificate

(3) Subject to subsection 15 (1), an initial medical certificate is valid for a period of twelve months from the date of its issue unless sooner cancelled by the Registrar. R.O. 1958, c. 75, s. 14; 1968 (4th) c. 14, s. 8.

Renewal of initial medical certificate and issuance of miner's medical certificate

15. (1) A holder of an initial medical certificate who intends to continue or resume work in a dust exposure occupation shall, within thirty days prior to the date of expiry of the certificate, apply to a medical officer for renewal of the certificate or issuance of a miner's medical certificate, and the medical officer shall,

(a) where the applicant

- (i) has been employed in a dust exposure occupation for less than twenty-three months in the four years preceding the day of the application, and
- (ii) is found by medical examination to be free from disease of the respiratory organs and to be otherwise fit for employment in a dust exposure occupation, renew the certificate; and

(b) where the applicant

- (i) has been employed in a dust exposure occupation for at least twenty-three months in the four years preceding the day of the application, and

(ii) is found by medical examination to be free from disease of the respiratory organs and to be otherwise fit for employment in a dust exposure occupation ;

issue a miner's medical certificate to the applicant.

(2) A miner's medical certificate, whether issued before or after the coming into force of this section, is valid for a period of twelve months from the date of its issue unless sooner cancelled by the Registrar. 1968 (4th) c. 14, s. 8.

16. (1) A holder of a miner's medical certificate who intends to continue or resume work in a dust exposure occupation shall, within thirty days prior to the date of expiry of the certificate, undergo a medical examination that shall be conducted by a medical officer.

Application for renewal of miner's medical certificate

(2) A medical officer who conducts an examination in accordance with subsection (1) shall renew the certificate where the applicant is free from tuberculosis of the respiratory organs. 1968 (4th) c. 14, s. 8.

Renewal of miner's medical certificate

17. (1) Where the holder of a miner's medical certificate has allowed the certificate to expire, he shall, before resuming work in a dust exposure occupation, undergo a medical examination that shall be conducted by a medical officer.

Application for renewal of certificate after expiry

(2) A medical officer who conducts an examination in accordance with subsection (1) shall, if such certificate expires less than three years before the date of such medical examination, renew the certificate where the applicant is free from tuberculosis of the respiratory organs.

Renewal of certificate after expiry

(3) Where the miner's medical certificate of a person examined in accordance with subsection (1) expired three years or more before the date of the medical examination, the miner's medical certificate shall not be renewed and the provisions of subsection 14 (2) shall apply. 1968 (4th) c. 14, s. 8.

No renewal after three years

18. (1) A medical examination conducted by a medical officer pursuant to this Ordinance shall include a chest x-ray photograph that may be submitted by the medical officer for such review as the medical officer thinks fit.

Medical examination to include chest x-ray

(2) Every person who undergoes a medical examination pursuant to this Ordinance shall provide the medical officer conducting the examination with such particulars of his occupational and medical history as the medical officer may require.

Occupational and medical history

Filing with
Registrar

(3) A medical officer shall, within thirty days after conducting a medical examination pursuant to this Ordinance, send to the Registrar the chest x-ray photograph, particulars of occupational and medical history and medical reports and opinions relating to the examination. 1968 (4th) c. 14, s. 8.

Production of
medical records

19. (1) The Registrar may produce x-ray photographs, particulars of occupational and medical history and medical reports and opinions filed with him pursuant to this Ordinance for inspection by

- (a) a medical officer for use in connection with a medical examination pursuant to this Ordinance of the person of whom such x-ray photographs, particulars of occupational and medical history and medical reports and opinions relate;
- (b) the person to whom such x-ray photographs, particulars of occupational and medical history and medical reports and opinions relate, his employer or former employer, and insurer of such person or the insurer of that person's employer or former employer or to the Referee appointed under the Workmen's Compensation Board appointed or established under similar legislation of any province for use in the adjustment or settlement of any claim by such person under that Ordinance or legislation, or
- (c) any other person where the written consent of the person to whom such x-ray photographs, particulars of occupational and medical history and medical reports and opinions relate is filed with the Registrar. 1968 (4th) c. 14, s. 8.

20. (1) Where the holder of a certificate is notified by the Registrar that the chest x-ray photographs taken prior to the issuance or renewal of his certificate, the particulars of occupational and medical history or the medical reports and opinions relating to an examination of him pursuant to this Ordinance have not been received by the Registrar, the holder shall, within twenty days from receipt of the notice.

Forwarding of
x-ray photo-
graphs, medical
reports, etc.

- (a) send such chest x-ray photographs or particulars of occupational and medical history or medical reports and opinions to the Registrar; or
- (b) have another medical examination and send the chest x-ray photographs, the particulars of his occupational and medical history and the medical reports and opinions relating to such examination to the Registrar. R.O. 1958, c. 75, s. 15; 1968 (4th) c. 14, s. 8.

21. (1) The Registrar may at any time require any person who is employed in a dust exposure occupation to be examined by a medical officer, and the medical officer shall endorse the results of such examination on the certificate issued to that person. 1968 (4th) c. 14, s. 8.

Registrar may order examination

22. (1) The Registrar may cancel a certificate where

Registrar may cancel a certificate

- (a) the chest x-ray photographs, particulars of occupational and medical history, or medical reports of the holder of the certificate have not been received by the Registrar;
- (b) the holder of a certificate fails or refuses to be examined by a medical officer when so required by the Registrar, or
- (c) he is satisfied that the holder of the certificate has tuberculosis of the respiratory organs or, in the case of a holder of an initial certificate, that he is otherwise medically unfit for employment in a dust exposure occupation.

(2) The Registrar shall not cancel a certificate pursuant to paragraph (c) of subsection (1) until a notice of intention to cancel the certificate within thirty days from receipt thereof has been given to the holder and the holder has been given an opportunity of being heard.

Notice of intention to cancel certificate

(3) A notice of intention to cancel a certificate shall be in writing and shall be sent to the holder of the certificate by double registered mail addressed to him at the address shown on his certificate. 1968 (4th) c. 14, s. 8.

23. (1) Subject to subsection 13 (2), no person shall work or be employed in a dust exposure occupation unless the manager of the mine at which he is so employed is in possession of the certificate issued to that person, and the manager shall retain such certificate, except when required by that person for renewal, during the period that he is so employed at the mine. R.O. 1958, c. 75, s. 16; 1968 (4th) c. 14, s. 8.

Delivery and custody

24. (1) An owner of a mine at which radio-active materials are mined, concentrated or treated shall supply and install such equipment and ensure that such medical tests are carried out as the Commissioner may, from time to time, direct for the protection of the health of employees at the mine and shall otherwise take suitable precautions to protect the employees engaged in mining, milling or treating such materials. R.O. 1958, c. 75, s. 17.

Radio-active materials

Disposal of harmful by-products

25. (1) The owner or manager of a mine shall dispose of arsenic sludge or other by-products of that mine that are dangerous to persons, domestic animals, wild animals, fish or property at a location approved by an inspector and in such a manner that it will not cause injury to any person, animal, fish or property. R.O. 1958, c. 75, s. 17; 1968 (4th) c. 14, s. 9.

Underground operation of diesel locomotive

26. (1) No person shall operate or be permitted to operate a diesel locomotive underground unless its operation is in accordance with the rules, and has been authorized by an inspector. R.O. 1958, c. 75, s. 19.

FENCING

Fencing of abandoned mines

27. (1) Where a mine has been abandoned or work therein has been discontinued, the owner or manager shall cause the top of the shaft and all surface entrances, pits and openings to be securely fenced or otherwise protected to the satisfaction of an inspector.

Fencing of tailings, etc.

(2) An inspector shall, where he is of the opinion that a fence should be erected around a mine or part thereof or any tailings or arsenic sludge to prevent injury to people, domestic animals, wild animals, fish or property, whether the mine is in operation or not, order the owner to erect a suitable fence for that purpose.

Where owner fails to comply

(3) Where an owner or manager who is required by this section to do so fails to erect suitable fencing or other protective means within such time as an inspector may order, the inspector may cause suitable fences or other protective means to be erected and all costs arising therefrom constitute a debt payable to the Receiver General of Canada and are recoverable in any court of competent jurisdiction. R.O. 1958, c. 75, s. 20; 1968 (4th) c. 14, s. 10 (1), (2).

NOTICES OF INSTALLATION, OPENING AND CLOSING

Notices

28. (1) The owner of a mine shall give or cause the manager to give written notice, within fourteen days prior to the commencement or resumption thereof, to an inspector, of

Installation of hoisting and power equipment

(a) the installation of a mine hoisting plant or power plant, including the name and address of the person in charge of the operation, the lot and group numbers or grant numbers of the land involved and the specifications and layout of the head frame, buildings, hoist, power plant and equipment;

- (b) the connection or reconnection of any electrical mining equipment with any source of electrical energy controlled by a person other than the owner: Electrical installation
 - (c) the commencement of mining operations or the resumption of mining operations after an interruption of one month or more; and Mining operations
 - (d) the closing down of a mine together with information as to compliance with the provisions of this Ordinance and any rules or regulations made thereunder in that connection. Closing of a mine
- (2) The owner or manager of a mine shall, in addition to the notice referred to in subsection (1), furnish an inspector with any other information respecting the mine that he may require. R.O. 1958, c. 75, s. 21. Other information

PLANS

- 29.** (1) The owner of a mine shall cause plans, on a scale acceptable to the Commissioner, to be kept up to date not more than six months last past, as follows, namely:
- (a) a surface plan showing the boundaries of mining property and all lakes, streams, roads, railways, power transmission lines, buildings, shaft opening adits, open surface workings, diamond-drill holes, out-croppings of rock, dumps and tailings disposal sites therein; Of surface
 - (b) plans of each underground level showing all underground workings, including shafts, tunnels, diamond drill holes, dams and bulkheads. Of underground
 - (c) vertical mine sections at suitable intervals and suitable azimuths, showing all shafts, tunnels, drifts, stopes and other mine workings in relation to the surface including the location at the top of the bedrock, surface of the over-burden and bottom and surface of any known body of water or watercourse; and Of vertical sections
 - (d) adequate ventilation plans showing the direction and velocity of the main air currents and the location of permanent fans, ventilation doors, stoppings and connections with adjacent mines. Of ventilation
- (2) The owner of a mine in which electricity is used underground shall cause to be kept up to date not more than six months last past an adequate plan or diagram, on a suitable scale, showing Electrical power
- (a) the position of all fixed electrical apparatus in the mine;

- (b) the routes of all fixed power feeders and fixed branch feeders, properly noted and referenced ; and
- (c) the rating of all electrical feeder control apparatus and equipment.

Copies to be furnished

(3) The owner or manager of a mine shall produce all plans, sections and diagrams to an inspector at an examination of a mine and shall render them available to him at any time and supply him with copies upon request. R.O. 1958, c. 75, s. 22 ; 1968 (4th) c. 14, s. 11.

PARTY WALLS

Width

30. (1) Except as otherwise provided in this Ordinance or unless the owners of adjoining mines, with the approval of the mining recorder, and an inspector, dispense therewith, a party wall at least fifteen feet thick, seven and one-half feet on each side of the boundary line, shall be left between adjoining underground mines.

Use of surface

(2) Adjoining owners of two mines are entitled to use the party wall in common on the surface as a roadway and no person shall obstruct the surface of the party wall in any manner. R.O. 1958, c. 75, s. 23.

Application where suspected breach

31. (1) Where the owner of a mine or mining property has reason to believe that a breach has been made in the party wall between his own and an adjoining property or that a trespass has been committed thereto, he may apply to the Commissioner for an investigation.

Investigation

(2) The Commissioner may, upon an application therefor, authorize a competent and disinterested person to investigate the complaint and for such purpose to enter the mine or mining property with such assistants as the Commissioner and the investigator deem necessary, use any workings and appliances thereof and examine the party wall and otherwise conduct a full investigation.

Report and costs

(3) The person appointed under subsection (2) to investigate shall report, in writing, his findings to the Commissioner as soon as possible after completing the investigation and the costs of the examination and report shall be borne as directed by the Commissioner.

Powers of Commissioner

(4) The Commissioner may, following an investigation under this section or upon application of an owner without such investigation,

- (a) direct the owner of an adjoining mine to permanently close a breach made in a party wall or correct any trespass committed in connection therewith;
- (b) direct the owner of an adjoining property to do such things as the Commissioner deems necessary to prevent or stop the flow of water from his property to another property; or
- (c) authorize an applicant to enter an adjoining mine and erect bulkheads or do such other things as the Commissioner deems necessary to protect the applicant's mine and employees from damage or danger from accumulations of water in the adjoining mine. R.O. 1958, c. 75, s. 24.

32. (1) Where the inspector deems it necessary or advisable for the protection of workmen employed underground, he may recommend, in writing, to the Commissioner that a connection between adjoining mines be established at such place as he deems advisable and that, if necessary, the connection be made and equipped as a refuge station.

Recommendations to Commissioner

(2) A copy of the recommendation shall be mailed by registered mail or served personally upon the owner or his agent of each of the mines affected.

Service of copies

(3) Upon receipt of the recommendation, the Commissioner may, by order, appoint a committee of three persons to determine

Committee

- (a) the design, specifications and locations of the connecting passage, bulkheads or other structures to be constructed in order to safeguard the present and future operations of the mines affected;
- (b) the work to be done by each of the mines affected and the proportion in which the cost of that work and of future maintenance shall be borne by the owners of the mines affected;
- (c) the time at which the work referred to in paragraph (b) shall be commenced and completed;
- (d) the proportion in which the costs and expenses of the committee shall be borne by the owners of the mines affected; and
- (e) such other provisions and requirements as the committee may deem necessary.

(4) The committee shall submit a report in writing to the Commissioner of its findings and a report of the majority of the committee shall be deemed to be its findings.

Report

Carrying into effect

(5) The Commissioner may order the findings of the committee to be carried out upon such terms and conditions as he deems advisable. R.O. 1958, c. 75, s. 25.

ACCIDENTS, SPECIAL OCCURRENCES AND RESCUE WORK

Notification of accident

33. (1) Where an accident that causes any loss of life occurs in a mine, the manager of the mine shall forthwith notify a coroner and an inspector or the Commissioner.

Scene of accident

(2) Subject to subsection (3), no person shall, except for the purpose of saving life or relieving suffering, interfere with, destroy, carry away or alter the position of any wreckage, article or thing at the scene of or connected with an accident until an inspector has completed an investigation of all circumstances surrounding the accident.

Permission to alter scene

(3) Where it is not possible to make an immediate investigation under subsection (2), an inspector may permit the wreckage, articles or things at the scene of or connected with an accident to be removed to such an extent as may be necessary to permit the work of the mine to be continued, but photographs or drawings showing the details of the scene of the accident shall be made prior to such removal. R.O. 1958, c. 75, s. 26.

Notice of special occurrences

34. (1) Where in or about any mine

- (a) an accident involving the hoist, sheaves, hoisting rope, shaft conveyance or shaft timbering,
- (b) an inrush of water from old workings or otherwise,
- (c) a failure of an underground dam or bulkhead,
- (d) any outbreak of fire below ground or an outbreak of fire above ground that endangers any structure at a mine entrance or the health and safety of any person,
- (e) a premature or unexpected explosion or ignition of explosives,
- (f) asphyxiation effecting a partial or total loss of physical control,
- (g) inflammable gas in the mine workings,
- (h) unexpected and non-controlled extensive subsidence or caving of mine workings, or
- (i) any explosion or outbreak of fire in any way related to the operation of air compressor, air receiver, compressed air line or steam boiler,

occurs, whether or not loss of life or injury is caused thereby, the owner, manager or agent of a mine shall forthwith send written notice to an inspector of such occurrence and shall

also furnish the inspector with such particulars as he may require.

(2) Where in or about any mine an outbreak of fire occurs that endangers the health or safety of any person, the owner or manager shall forthwith notify an inspector. Notice of fire

(3) Where a rockburst, whether or not personal injury or death is caused thereby, is determined to have occurred within the workings of any mine, the owner or manager shall forthwith send a written notice to an inspector or, in his absence, to the Commissioner, notifying him thereof and shall furnish such particulars as he may require. Rockbursts

(4) Records of rockbursts shall be kept at every mine showing as far as possible their times, locations and extent, the injuries caused to persons and any other relevant information and such records shall be made available to an inspector whenever he so requests. Record of rockbursts

(5) Where any person suffers injury or disability whether resulting in lost time or not, the owner or manager shall send notice thereof to an inspector in the form prescribed by the Commissioner. R. O. 1958, c. 75, s. 27; 1968 (4th) c. 14, s. 12 (1)-(2). Injuries

35. (1) This section applies only to a mine that in the opinion of an inspector conducts operations that may require the use of mine rescue apparatus. Application

(2) Mine rescue stations shall be established, equipped, operated, and maintained at such places and in such manner as the Commissioner may direct. Mine rescue stations

(3) A mine rescue superintendent shall be responsible for the maintenance of mine rescue equipment in good and serviceable condition at all times and for the operation of mine rescue stations. R.O. 1958, c. 75, s. 28; 1968 (4th) c. 14, s. 13. Mine rescue superintendent

36. (1) Notwithstanding section 35 of this Ordinance, the Commissioner may establish, equip, operate and maintain mine rescue stations.

(2) The cost of operating and maintaining mine rescue equipment and mine rescue stations, including the salaries of mine rescue superintendents, shall be recoverable from the owner of every mine in accordance with this section.

(3) An inspector shall assess every mine to which this section applies with the cost of maintenance of mine rescue

equipment and with the cost of operation of mine rescue stations including the salaries of mine rescue superintendents.

(4) The assessment referred to in subsection (3) shall be made quarterly and shall be apportioned among the mines to which this section applies on a per man per month basis for

- (a) underground operations,
- (b) open pit operations, or
- (c) any combination or underground and open pit operations,

at rates to be fixed from time to time by the Commissioner.

(5) Moneys paid, collected or received in accordance with this section shall be paid to the Receiver General of Canada and shall be deemed not to be 'public money' as defined in section 2 of the *Financial Administration Ordinance, 1968* (2nd) c. 9, s. 3; 1968 (4th) c. 14, s. 14.

Mine rescue training

37. (1) The manager of a mine shall cause sufficient personnel at the mine, including such proportion of the supervisory personnel as an inspector may direct, to be trained as mine rescue crews in the use and maintenance of mine rescue apparatus.

(2) Mine rescue crews shall be trained by a mine rescue superintendent in accordance with any direction given by an inspector.

Supervision of crews

(3) The manager of a mine shall supervise mine rescue crews in all mine rescue work and recovery operations conducted at the mine.

Returns

(4) The owner or manager of a mine shall submit to an inspector such returns or other information respecting safety at a mine or mine rescue training or operations as the Commissioner may prescribe.

Committee to recommend safety rules

(5) At every mine a safety committee shall be established having representation of labour and management, and such safety committee may assist in making recommendations to the Commissioner with respect to rules establishing reasonable standards of safety at such time. R.O. 1958, c. 75, s. 29; 1968 (4th) c. 14, s. 15.

OFFENCES AND PENALTIES

Commencement of prosecution

38. (1) No prosecution shall be commenced for an offence against this Ordinance, unless it is commenced by

- (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. R.O. 1958, c. 75, s. 30. Limitation

39. (1) Every person who

- (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;

Offence and penalty

commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

(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. Where offence continues

(3) Where an offence is one that might have endangered the safety of persons employed in or about a mine 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. Additional penalty where offence dangerous

(4) Where a corporation is guilty of an offence against this Ordinance, an officer, director or agent of the corporation who directed, authorized, consented to, acquiesced in, or participated in the commission of the offence is a party to and is guilty of the offence and is liable on summary conviction to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. Offence by a corporation

(5) A prosecution for an offence under this Ordinance may be heard before a judge or justice. R.O. 1958, c. 75, s. 31; 1968 (4th) c. 14, s. 16. Prosecution before judge or justice

CHAPTER M-10

MOTION PICTURES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Motion Pictures Ordinance*. R.O. 1958, c. 76, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
- “exhibitor’s licence” means a valid licence issued under this Ordinance to exhibit films or slides in a theatre; “exhibitor’s licence”
- “films” means a motion picture or cinematographic film or similar device used in connection with a motion picture machine; “films”
- “motion picture machine” includes a cinematograph or other similar apparatus used for the showing of films or slides; “motion picture machine”
- “officer” means a person appointed by the Commissioner under section 10; “officer”
- “operator” means a person who operates or manipulates a motion picture machine in a theatre; “operator”
- “operator’s licence” means a valid licence issued under this Ordinance to a person to operate or manipulate a motion picture machine in a theatre; “operator’s licence”
- “performance” means an exhibition, show or other form of entertainment that includes the exhibition of motion pictures or slides and that is held in a theatre; “performance”
- “safety film” means film that does not contain more than thirty-six one-hundredths of one percent of nitrogen and that, when tested in accordance with the definitions and analytical procedures prescribed by the Canadian Standards Association in its Standard for Safety Film, is shown to be both difficult to ignite and slow burning; “safety film”
- “slide” means a stationary picture slide or similar device used in conjunction with a motion picture machine; and “slide”
- “theatre” means any building, hall, place of amusement or other premises that is erected or used for a place of public resort, gathering, entertainment or amusement in or upon which a motion picture machine is operated whether or not “theatre”

the motion picture machine is regularly or occasionally operated and whether or not it forms part of the equipment of the building, hall, place of amusement or other premises. R.O. 1958, c. 76, s. 2.

APPLICATION

Application **3.** (1) Except as provided in section 19, this Ordinance applies only to commercial theatres. R.O. 1958, c. 76, s. 3.

LICENCES AND PERMITS

Exhibitor's licence required **4.** (1) No person shall exhibit films or slides in a theatre unless he is the holder of an exhibitor's licence. R.O. 1958, c. 76, s. 4.

Operator's licence required **5.** (1) No person shall operate or manipulate a motion picture machine in a theatre unless
 (a) he is the holder of an operator's licence issued under this Ordinance,
 (b) he is the holder of a valid licence, equivalent to an operator's licence, issued by the government of a province of Canada, or
 (c) he is acting pursuant to a permit issued under section 9. R.O. 1958, c. 76, s. 5.

Issue **6.** (1) The Commissioner or an officer may issue exhibitors' licences and operators' licences.

Revocation **(2)** The Commissioner may, for any reasonable cause, revoke a licence issued under this Ordinance. R.O. 1958, c. 76, s. 6.

Duration **7.** (1) Exhibitors' licences and operators' licences expire on the 31st day of March next after the day on which they come into force. R.O. 1958, c. 76, s. 7.

Annual fee for exhibitor's licence **8.** (1) The Commissioner may prescribe the annual fee for exhibitors' and operators' licences. R.O. 1958, c. 76, s. 8; 1971 (1st) c. 20, s. 17.

Exemptions by Commissioner **9.** (1) The Commissioner may, in his direction, issue temporary permits to operators not fully qualified where it appears expedient to do so. R.O. 1958, c. 76, s. 9.

OFFICERS

10. (1) The Commissioner may appoint persons to act as officers for the purposes of this Ordinance. Appointment

(2) An officer has the following duties and powers : Duties and powers

- (a) to issue licences required by this Ordinance ;
- (b) to investigate, approve, reject or report on motion picture machines and equipment ;
- (c) to investigate the qualifications and activities of operators including the right to demand the production of operators' licences ; and
- (d) to investigate, approve, reject or report on the fire prevention or other equipment or facilities of theatres. R.O. 1958, c. 76, s. 10.

MOTION PICTURE MACHINES AND CABINETS

11. (1) A motion picture machine shall be located in a cabinet or enclosure of a style and size approved by the Commissioner or an officer. Cabinet

(2) The cabinet or enclosure shall be lined with two ply pure asbestos paper or equivalent fire-protective lining and covered with protective covering. Lining

(3) The cabinet or enclosure shall be equipped with a metal door that opens outward and that is kept unlocked. Door

(4) Wires conveying electricity to the cabinet or enclosure shall be covered by porcelain tubes or equivalent insulating material and electric switches shall be enclosed in a fire-proof box. Wires and switches

(5) The cabinet or enclosure shall be equipped with an automatic cut-off switch. Automatic cut-off

(6) This section does not apply to a motion picture machine using safety film. R.O. 1958, c. 76, s. 11. Application

12. (1) A motion picture machine cabinet or enclosure shall be kept clean and shall not contain any articles that are not required for the operation or maintenance of the machine. Cabinets to be kept clean

(2) A fire extinguisher, in good working order, of a type approved by the Commissioner or an officer shall be kept in each cabinet or enclosure. R.O. 1958, c. 76, s. 12. Fire extinguisher

13. (1) A motion picture machine shall be equipped with Motion picture machine

- (a) a fire-proof magazine,
- (b) an automatic fire shutter, and
- (c) properly insulated wire connections throughout, of a type and size approved by the Commissioner or an officer.

Rheostat (2) Where a rheostat is used it shall be set on a marble, slate or other insulated base at least one inch in thickness, inside a fire-proof box.

Use of non-electric lamps (3) Non-electric lamps shall not be used in a motion picture machine unless they have been first approved by the Commissioner or an officer. R.O. 1958, c. 76, s. 13.

THEATRES

Exits 14. (1) A theatre shall have proper exits of a number, type and size approved by the Commissioner or an officer.

Signs (2) Each exit shall be marked with a sign containing the single word "exit" in letters that are at least six inches high.

Red lights (3) A red light shall be placed near each exit sign and red lights shall not be used elsewhere in the theatre.

Doors (4) Exit doors shall open outwards and shall remain unlocked during a performance.

Opening of exit doors (5) All exit doors shall be opened at the conclusion of a performance or where, during a performance it is necessary for reasons of safety for the persons attending the performance to leave the theatre. R.O. 1958, c. 76, s. 14.

Location of cabinets 15. (1) The cabinet or enclosure in which the motion picture machine is located in a theatre shall occupy a position that does not interfere with an aisle, passageway, stairway or exit. R.O. 1958, c. 76, s. 15.

Fire equipment 16. (1) In every theatre, two fire extinguishers in good working order of a type approved by the Commissioner or an officer, and sand pails and shovels shall be kept near the motion picture machine cabinet or enclosure together with any other fire-prevention or fire-fighting equipment, at appropriate places throughout the theatre, as the Commissioner or an officer may require. R.O. 1958, c. 76, s. 16.

Aisles to be free of obstructions 17. (1) The aisles, passageways, stairways and exits of a theatre shall be kept free from seats, chairs or other obstruction.

(2) No person shall be allowed to stand in an aisle, passageway, stairway or exit during a performance. R.O. 1958, c. 76, s. 17. No standing in aisles, etc.

OPERATORS

18. (1) No person shall operate a motion picture machine unless he has reached the age of eighteen years. R.O. 1958, c. 76, s. 18. Age

19. (1) No person shall operate a motion picture machine anywhere, whether in a commercial theatre or not, when he is under the influence of liquor. R.O. 1958, c. 76, s. 19. Liquor

20. (1) An operator shall Duties

(a) thoroughly examine the motion picture machine and all wire connections to and in the machine before each performance in which the machine is to be operated by him;

(b) devote his full attention to the motion picture machine during its operation; Attention

(c) prevent the entry of any person, other than an officer, into the motion picture cabinet or enclosure during its operation; and No entry to cabinet

(d) refrain from smoking or lighting matches during the operation of the motion picture machine. R.O. 1958, c. 76, s. 20. No smoking

SUNDAY PERFORMANCES

21. (1) A motion picture machine shall not be operated in a theatre on a Sunday except at the times and under the conditions prescribed by the Commissioner. R.O. 1958, c. 76, s. 21.

REGULATIONS

22. (1) The Commissioner may make regulations Regulations

(a) prescribing the application for and the issue and form of exhibitors' and operators' licences;

(b) governing the use and operation of motion picture machines and theatres;

(c) providing for the examination and regulation of operators; and

(d) governing the duties and employment of officers. R.O. 1958, c. 76, s. 22.

PENALTY

Offence and
penalty

23. (1) Any 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 two hundred dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment. R.O. 1958, c. 76, s. 23.

CHAPTER M-11

MOTOR VEHICLE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Motor Vehicles Ordinance*. R.O. 1985, c. 77, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance

Definitions

- “dealer” means any person who carries on the business of buying, selling or exchanging motor vehicles or trailers either as principal or agent; “dealer”
- “driver” means a person who drives or is in actual physical control of a vehicle; “driver”
- “gross weight” means the weight of the motor vehicle when loaded; “gross weight”
- “highway” includes any thoroughfare, street, road, trail, avenue, parkway, driveway, viaduct, lane, alley, square, bridge, causeway, trestleway or other place, whether publicly or privately owned, any part of which the public is ordinarily entitled or permitted to use for the passage of vehicles; “highway”
- “intersections” means the area at the intersection of two or more highways that is or would be enclosed by cross lines connection the middle points of the curb corners of adjoining highways or, where there are no curbs, connecting the points of intersection of the lateral boundary lines of adjoining highways; “intersection”
- “licence” means a valid and subsisting licence issued under this Ordinance; “licence”
- “licensed gross weight” means the gross weight for which a vehicle is licensed; “licensed gross weight”
- “livery” or “taxicab” means a motor vehicle that is used by its owner, or driver for the business of transporting passengers at their request to a stated destination but that is not operated at regular intervals or in accordance with a set time and schedule; “livery or taxicab”
- “motorcycle” means a motor vehicle mounted on two or three wheels and includes those motor vehicles known to the trade as motorcycles, motor scooters, and power bicycles; “motorcycle”

- "motor vehicle" "motor vehicle" means a vehicle not run upon rails, that is designed to be self-propelled, but does not include a traction engine and a vehicle used exclusively for mining, forestry, construction, road maintenance or farming operations and that is not primarily designed to carry a load ;
- "municipality" "municipality" means a municipal corporation ;
- "officer" "officer" means a person who is appointed or authorized to be an officer under this Ordinance and includes any member of the public service employed in connection with the operation of a weigh scale established by the Commissioner pursuant to this Ordinance ;
- "operator" "operator" means a person who operates a motor vehicle on a highway ;
- "overload" "overload" means,
 (a) the number of pounds derived by subtracting from the gross weight of a vehicle the licensed gross weight ; or
 (b) the number of pounds derived by subtracting from the weight on any one axle or combination of axles of a vehicle the weight authorized by regulation to be carried on the axle of combination of axles,
 whichever is the greater ;
- "oversize" "oversize" means the amount derived by subtracting from the outside width, height, or overall length of a vehicle with its load (if any) the permissible outside width, height, or overall length prescribed under this Ordinance and the regulations made hereunder ;
- "owner" "owner" means the person in whose name a motor vehicle or trailer is or is required to be registered under this Ordinance ;
- "permit" "permit" means a valid and subsisting permit issued under this Ordinance ;
- "prescribed" "prescribed" means prescribed by this Ordinance or by regulation made by the Commissioner under this Ordinance ;
- "public service vehicle" "public service vehicle" means a motor vehicle or trailer operated on a highway by or on behalf of any person for gain or reward, whether such operation is regular or only occasional or for a single trip, but does not include a motor vehicle or trailer owned by a municipality nor a motor vehicle or trailer used by its owner for the distribution or transportation of goods manufactured or sold by him or a single vehicle used by the owner to distribute commodities on his own behalf ;
- "recovery vehicle" "recovery vehicle" means a vehicle that is constructed for or primarily used for the retrieval of other vehicles which are

temporarily or permanently immobilized on or adjacent to a highway ;

“Registrar” means the Commissioner or any person authorized by the Commissioner to act as Registrar for the purposes of this Ordinance ; “Registrar”

“settlement” means any area or place outside the limits of a municipality in respect of which, pursuant to section 156, signs have been erected or notices posted up respecting the rate of speed of vehicles within the limits of that area or place for the safety of the inhabitants thereof ; “settlement”

“traction engine” means a self-propelled vehicle designed primarily for traction purposes and not constructed itself to carry a load, but does not include a truck tractor ; “traction engine”

“trailer” means a vehicle that is drawn on a highway by a motor vehicle, whether or not part of its weight or load rests upon or is carried by that motor vehicle, but does not include an implement of husbandry temporarily drawn, propelled or moved on a highway or a sidecar attached to a motorcycle ; “trailer”

“truck” means a motor vehicle that is constructed for or primarily used for the transportation of goods and chattels ; “truck”

“truck tractor” means a motor vehicle that is used solely for the purpose of supplying power for the propulsion or drawing of a trailer or other vehicle ; and “truck tractor”

“vehicle” means a device in, upon or by which a person or thing is or may be transported or drawn upon a highway, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks but does not include a motor cycle or motorized toboggan except when used upon a highway ordinarily maintained and used for the passage of vehicles. R.O. 1958, c. 77, s. 2 ; 1961 (1st) c. 5, s. 1 ; 1967 (2nd) c. 12, s. 1 ; 1970 (1st) c. 5, s. 1(1)-(4) ; 1970 (2nd) c. 7, s. 1 ; 1971 (1st) c. 29, s. 1(1)-(3). “vehicle”

PART I

REGISTRATION AND LICENSING OF VEHICLES

REGISTRATION

3. (1) Subject to section 23, no person shall operate or permit to be operated a motor vehicle or trailer on a highway in the Territory unless the motor vehicle or trailer is registered pursuant to this Ordinance. R.O. 1958, c. 77, s. 3. Registration required

Register 4. (1) The Registrar shall keep a register for the purpose of registering vehicles under this Ordinance. R.O. 1958, c. 77, s. 4.

Application to Commissioner 5. (1) The owner of a motor vehicle or trailer may apply to the Registrar to have the motor vehicle or trailer registered.

(2) The application shall be made in the prescribed form and be accompanied by the prescribed fee. R.O. 1958, c. 77, s. 5; 1960 (3rd) c. 3, s. 1; 1971 (1st) c. 29, s. 2.

PUBLIC SERVICE VEHICLES

6. (1) No person shall operate or cause or permit to be operated a motor vehicle on any highway in the Territory as a public service vehicle unless he or the person for or on whose behalf the motor vehicle is operated holds a subsisting public service vehicle licence authorizing the operation of that motor vehicle in the manner and for the purposes in and for which it is operated; and such licence shall be in addition to the certificate of authority issued pursuant to the *Transport Public Utilities Ordinance*.

(2) The owner of a motor vehicle may apply to the Registrar to have a public service vehicle licence issued in respect of such motor vehicle.

(3) An application made under subsection (2) of this section shall be in the prescribed form and be accompanied by the prescribed fee.

Granting of licence (4) Upon receipt of an application for a public service vehicle licence and the prescribed fee and upon being satisfied that the application is in accordance with the certificate of authority issued pursuant to the *Transport Public Utilities Ordinance*, the Registrar may issue the licence.

Issue of licence plates (5) Where the Registrar issues a public service vehicle licence he shall also issue licence plates to the licensee.

Renewal of licences (6) A public service vehicle licence may, with the approval of the Registrar, be renewed in the prescribed manner and upon payment of the prescribed fee.

Amendment, suspension or cancellation of licences (7) The Registrar may amend, suspend or cancel any public service vehicle licence in accordance with any amendment, suspension or cancellation of the certificate of authority.

Display of licence (8) Every public service vehicle licence made subject to conditions shall have the conditions printed on the licence and the licensee shall cause the licence to be carefully preserved and carried on the vehicle and to be available at all

times for the inspection of any person authorized by or under the provisions of this Ordinance to inspect such licence.

(9) Every holder of a public service vehicle licence shall cause to be affixed to the outside of and displayed on the motor vehicle throughout the term of the licence, the licence plates issued pursuant to subsection (5) in a manner so that they are clearly visible from the front and rear.

Display of
licence plates

(10) Where any licensee withdraws from service, sells or otherwise disposes of a motor vehicle for which he holds a subsisting public service vehicle licence, he shall forthwith

- (a) report such fact to the Registrar;
- (b) remove the public service vehicle licence plates from the motor vehicle; and
- (c) return to the Registrar the public service vehicle licence plates.

(11) An owner may apply to the Registrar upon the prescribed form accompanied by the prescribed fee to transfer the public service vehicle licence plates removed from a motor vehicle under this section to another motor vehicle of which he is the owner.

(12) Every holder of a public service vehicle licence shall cause to be clearly marked in a conspicuous place on both sides of the vehicle in figures or letters not less than two inches in height, the licensed gross weight of the motor vehicle; and no person shall operate on a highway a motor vehicle for which a public service vehicle licence is required unless it is marked as required by this subsection.

(13) Every public service vehicle licensee shall operate his licensed vehicle and conduct his business in conformity with the certificate of authority, and with the provisions of this Ordinance and the regulations and orders of the Commissioner.

Operation and
conforming of
laws

(14) Notwithstanding any other provisions of this Ordinance or the regulations, where a truck-tractor drawing a trailer is registered or licensed outside the Territory and is brought into the Territory for the purpose of transferring the trailer to a properly licensed truck-tractor, the said first mentioned truck-tractor is exempt from the provisions of this section during the portion of the journey between

- (a) the south border of the Territory and the Watson Lake Check Point and return to the border, and
- (b) the west border of the Territory on the Alaska Highway and the settlement of Beaver Creek and return to the border. R.O. 1958, c. 77, s. 6; 1960 (3rd) c. 3, s.

2(1)-(4); 1967 (2nd) c. 12, s. 2; 1970 (1st) c. 5, s.2; 1971 (1st) c. 29, s. 3.

Weigh scales

7. (1) The Commissioner may establish and operate weigh scales at such places as he deems necessary.

(2) The Registrar is responsible for the weighing of vehicles and the issuance of overload and oversize permits.

(3) A vehicle

(a) is overloaded if a computation as defined in section 2 with respect thereto would result in an overload; and

(b) is oversize of a computation as defined in section 2 with respect thereto would result in an oversize.

(4) No person shall drive or operate on a highway a vehicle which is overloaded or oversize except under the authority of a permit to that effect issued under this Ordinance in respect of the vehicle and in accordance with that permit and with the regulations in that behalf made under this Ordinance.

(5) The Commissioner, or such person as may be appointed by him, may, upon application accompanied by the prescribed fee, issue

(a) an overload permit for the operation on a highway of a vehicle that is overloaded;

(b) an oversize permit for the operation on a highway of a vehicle that is oversize.

(6) A person who contravenes subsection (4) commits an offence and is liable on summary conviction, to a fine of not more than five hundred dollars, and in default of payment to imprisonment for a term not exceeding six months, and in addition shall be ordered to pay the fee found to be due, and every violation of subsection (4) is a separate and distinct offence. 1967 (2nd) c. 12, s. 3; 1971 (1st) c. 29, s. 4.

LIVERY LICENCES

Livery business

8. (1) No person shall carry on the business of a liveryman until he has applied for and received from the Commissioner a liveryman's licence in respect of each vehicle to be operated by the applicant as a livery.

(2) The Commissioner shall not issue a liveryman's licence until the applicant pays the prescribed fee and complies with any condition that may be prescribed.

(3) The Commissioner may, after considering an application for a liveryman's licence, grant or refuse the application.

(4) No liveryman's licence shall be transferable from one person to another.

(5) Subsections 6(10) and 6(11) are applicable *mutatis mutandis* to any withdrawal from service sale or other disposition of a motor vehicle in respect of which a subsisting liveryman's licence has been issued under this section.

(6) Where the holder of a liveryman's licence ceases to carry on business as a liveryman, he shall return his liveryman's licence to the Commissioner.

(7) Every purchaser of a livery business shall obtain a new liveryman's licence.

(8) The Commissioner may amend, suspend or cancel any liveryman's licence on any of the following grounds:

- (a) non-compliance by the licensee with any of the conditions of the licence or with any of the provisions of this Ordinance or the regulations, or any order of the Commissioner;
- (b) failure of the licensee to exercise any of the rights and privileges granted in the licence or to provide adequate and efficient service; or
- (c) conviction of the licensee in any court for
 - (i) any offence against this Ordinance,
 - (ii) any offence against any provision of the *Criminal Code* relating to driving on the highways, or
 - (iii) any offence against any provision of the *Liquor Ordinance* or the *Indian Act* relating to the sale or supply of liquor. R. O. 1958, c. 77, s. 7; 1960 (3rd) c. 3, s. 3; 1971 (1st) c. 29, s. 5(1)-(2).

MOTOR VEHICLE INSURANCE

9. (1) Subject to subsection (5) every owner shall in respect of any one accident to the limit of at least \$50,000 exclusive of interest and costs take out and maintain in force a policy of motor vehicle liability insurance 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.

Certificate of
insurance

(2) Every insurer who issues a policy of insurance pursuant to subsection (1)

- (a) shall issue to each person named as an insured in the policy a motor vehicle liability insurance card in a form approved by the Commissioner;
- (b) shall notify the Registrar in writing as to the particulars of the insurance; and

(c) shall notify the Registrar in writing ten days before such policy is cancelled or expires.

(3) A policy covering a motor vehicle insured pursuant to subsection (1) is in force and shall not expire or be cancelled until after ten days notice is received by the Registrar from the insurer that the policy is to expire or be cancelled.

(4) Every application for registration of a motor vehicle shall be accompanied by a motor vehicle liability insurance card as provided in subsection (2) or such other proof as the Commissioner may prescribe indicating that the owner is insured as required.

(5) The Commissioner may, in his discretion, order that motor vehicles which are operated only in an area described in such order shall be exempt from this section.

(6) Where a policy of insurance covering a motor vehicle issued in accordance with this section expires or is for any reason cancelled, the owner of such motor vehicle shall forthwith surrender to the Registrar the certificate of registration and licence plates in respect of such motor vehicle.

(7) A certificate of the Commissioner stating that the person named therein has not taken out or maintained in force a policy of a motor vehicle liability insurance as required by subsection (1) is admissible in evidence in a prosecution of such person for a violation of that subsection, and is *prima facie* proof of the statement contained in the certificate.

(8) Any person who operates on a highway a motor vehicle in respect of which a policy of insurance mentioned in subsection (1) is not in force commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months or to both fine and imprisonment.

(9) On receipt of a notice from the Registrar that a policy of insurance referred to in subsection (1) will expire or be cancelled, every owner shall within such time as may be specified in the notice,

(a) take out and maintain in force a policy of insurance in respect of the vehicle mentioned in the notice; or

(b) deliver to the Registrar the licence plates issued in respect of the vehicle mentioned in the notice.

(10) Any person who fails to comply with subsection (9) within the time specified commits an offence and is liable on summary conviction to the penalty set out in subsection (8). R.O. 1958, c. 77, s. 8; 1960 (3rd) c. 3, s. 4; 1963 (2nd) c. 9, s. 1; 1968 (4th) c. 15, s. 1; 1971 (1st) c. 29, s. 6.

CERTIFICATE OF REGISTRATION AND LICENCE PLATES

10. (1) No person shall knowingly make a false statement of facts in an application for registration of a motor vehicle or trailer. No false statement of facts

(2) No person shall knowingly make a false statement of fact in any proof of insurance required by the Registrar under section 9. R.O. 1958, c. 77, s. 9.

11. (1) Where the Registrar is satisfied that an applicant for the registration of a motor vehicle has complied with sections 5 and 8, or an applicant for the registration of a trailer has complied with section 5, he shall register the motor vehicle or trailer in the register referred to in section 4 by entering therein Registration

- (a) the name and address of the owner;
- (b) the number of the owner's certificate of registration; and
- (c) a description of the motor vehicle or trailer. R.O. 1958, c. 77, s. 10.

12. (1) Where a motor vehicle or trailer is registered under this Ordinance the Registrar shall issue a certificate of registration and licence plate or plates showing in plain figures the number of the certificate of registration for the current year in respect of that motor vehicle or trailer. Certificate of registration and number plates

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

(3) The Registrar may renew a certificate of registration that has expired if the owner of the motor vehicle applies for its renewal in the prescribed form and pays the prescribed fee. R.O. 1958, c. 77, s. 11; 1960 (3rd) c. 3, s. 5; 1970 (1st) c. 5, s. 3; 1971 (1st) c. 29, s. 7. Renewal of certificate of registration

13. (1) Subject to section 21, no person shall operate on a highway a motor vehicle or trailer that does not have firmly attached thereto the number plate or plates furnished by the Commissioner in respect of that motor vehicle or trailer.

(2) The number plates shall be attached to the outside of a motor vehicle in a manner so that they are clearly visible from the front and rear. To be distinctly visible

(3) Every motor vehicle, other than a motorcycle, or pedal bicycle with motor attachment, shall carry two number plates firmly affixed to the motor vehicle, one plate at the front of the vehicle and one plate at the rear of the vehicle. Motor vehicle

Motorcycles (4) A motorcycle or pedal bicycle with motor attachment shall carry one number plate attached to the rear mudguard thereof.

Trailer (5) A trailer shall carry one number plate attached to the rear thereof.

(6) Any licence plate or number plate furnished by the Commissioner shall be and remain the property of the Crown and shall be returned to the Commissioner when required by him. R.O. 1958, c. 77, s. 12.

Where number plates lost, destroyed or defaced

14. Where a number plate of a registered motor vehicle or trailer is lost, destroyed or is so defaced as to be illegible, the owner shall forthwith apply to the Registrar for re-registration of his motor vehicle or trailer and shall transmit with his application

(a) the certificate of registration issued to him under section 12;

(b) the remaining or defaced number plate, if any; and

(c) the prescribed fee.

the Registrar may re-register the motor vehicle or trailer and issue to the owner a new certificate of registration and new number plates. R.O. 1958, c. 77, s. 13; 1960 (3rd) c. 3, s. 6; 1971 (1st) c. 29, s. 8.

Transfers

15. (1) If an owner disposes of his registered motor vehicle or trailer he shall immediately notify the Registrar and furnish the name and address of the new owner thereof.

(2) The owner shall deliver to the Registrar for re-issuing the certificate of registration of the motor vehicle or trailer of which he has disposed, and upon payment of the prescribed fee the certificate of registration shall, subject to this Ordinance, be re-issued to the new owner; the number plates issued to the original owner for the motor vehicle or trailer shall remain affixed to such motor vehicle or trailer. R.O. 1958, c. 77, s. 14; 1960 (3rd) c. 3, s. 7; 1965 (2nd) c. 5, s. 1; 1971 (1st) c. 29, s. 9.

DEALER'S LICENCES

Licence authorizing dealer to buy and sell motor vehicles and trailers

16. (1) Every dealer, whether motor vehicles or trailers owned, possessed or controlled by him are registered or not, shall apply to the Registrar for a licence authorizing the dealer to buy and sell motor vehicles and trailers and to operate motor vehicles and trailers for the purpose of demonstration and sale.

(2) A dealer shall make application for the licence under subsection (1) to the Registrar in the prescribed form accompanied by the prescribed fee.

(3) Upon the receipt of an application under subsection (1) and upon proof satisfactory to the Commissioner that the applicant has complied with the provisions of subsection 9 (1), the Registrar may issue to the applicant a dealer's licence in the prescribed form.

(4) A licence issued under subsection (3) authorizes a dealer to obtain such distinctive number plates used for the purposes of demonstration and sale as are necessary in his business upon payment of the prescribed fee.

(5) A motor vehicle or trailer that is owned or possessed by a dealer for purposes of demonstration and sale and not for hire or for use as a service car or truck and that, when driven upon a highway for demonstration or sale, has attached thereto and exposed thereon a set of dealer's number plates, shall be deemed to be registered under this Ordinance.

(6) Where a dealer has an established place of business in more than one municipality or settlement, he shall apply for a separate permit and distinctive number plates for each place of business. R.O. 1958, c. 77, s. 15; 1960 (3rd) c. 3, s. 8 (1)-(2); 1971 (1st) c. 29, s. 10(1)-(2).

17. (1) No person shall attach to any motor vehicle any number plate issued pursuant to section 16, nor shall any person use or operate any motor vehicle to which any number plate so issued is attached except a vehicle that is Offence

- (a) kept by him exclusively for sale and not for hire, and
- (b) used exclusively in his business of a dealer therein for the promotion of sale of such motor vehicle. R.O. 1958, c. 77, s. 16.

18. (1) Any dealer who Idem

- (a) drives or permits to be driven upon a highway any motor vehicle or trailer owned or possessed by him for purposes of demonstration or sale without having attached thereto and exposed thereon dealer's number plates, or
- (b) drives or permits to be driven upon a highway for any purpose other than for demonstration or sale or for conditioning or testing, as the case may be, and not in compliance with the requirements of this Ordinance and the regulations, any motor vehicle or trailer having attached thereto or exposed thereon dealer's number plates

is guilty of an offence. R.O. 1958, c. 77, s. 17.

19. (1) No dealer or any person employed on commission by him shall deliver a motor vehicle that he has sold to a purchaser unless such motor vehicle and its equipment complies with this Ordinance and regulations.

(2) Every dealer and other person mentioned in subsection (1) shall at the time of delivery of a motor vehicle to a purchaser furnish him with a certificate to the fact that the motor vehicle and its equipment complies with this Ordinance and the regulations. R.O. 1958, c. 77, s. 18.

In transit
markers

20. (1) Upon proof satisfactory to the Registrar that a dealer or purchaser has, in respect of a motor vehicle, taken out a policy of motor vehicle liability insurance in an amount not less than the amount required under subsection 9(1), and upon payment of the prescribed fee, the Registrar may issue to that dealer or purchaser an "In Transit" marker, which shall be used only on,

- (a) the original trip of that motor vehicle from the place of business of the distributor to the place of business of the dealer;
- (b) the original trip of that motor vehicle from the place of business of the distributor to the place of business of the purchaser;
- (c) the original trip of that motor vehicle from the place of business of the dealer to the place of business or residence of the purchaser; or
- (d) the original trip of that motor vehicle from the place of purchase to the place of business or residence of the purchaser.

(2) An "In Transit" marker shall be pasted on the windshield of the motor vehicle and shall be destroyed immediately upon the arrival of the vehicle at the place of business of the dealer, the place of business of the purchaser, or the residence of the purchaser.

(3) Every dealer shall account to the Registrar for all "In Transit" markers issued to him. R.O. 1958, c. 77, s. 19; 1960 (3rd) c. 3, s. 9; 1971 (1st) c. 29, s. 11.

EXEMPTION OF NON-RESIDENTS

Registration of
vehicles of
non-residents

21. (1) Where the owner of a motor vehicle or trailer resides outside the Territory and has complied with the law of his place of residence with respect to the registration and licensing of the motor vehicle or trailer and the motor vehicle or trailer carrying number plates for the current year assigned under that law to that motor vehicle or trailer is brought into the Territory for the purpose of touring for pleasure for a period not exceeding ninety days, the motor

vehicle or trailer shall be deemed to be registered pursuant to this Ordinance. R.O. 1958, c. 77, s. 20.

22. (1) The Commissioner may enter into a reciprocal arrangement or agreement with any province or state exempting any class of owners who are ordinarily resident in that province or state from the application of the provisions of this Ordinance respecting

Reciprocal arrangements with other provinces

- (a) registration and licensing of motor vehicles and the carrying and displaying upon motor vehicles of licences and number plates;
- (b) the granting by that province or state of similar exemptions and privileges with respect to owners who are ordinarily resident in the Territory.

(2) Every arrangement or agreement made under subsection (1) and the exemptions thereunder shall be subject to the condition that no person shall be entitled to any exemption or privilege thereunder in respect of a motor vehicle in the Territory unless the owner of the motor vehicle has complied with the law of his place of residence as to the registration and licensing of motor vehicles and carries or causes to be carried on the motor vehicle the certificate or licence and the number plates prescribed by the law of that place, and shall also be subject to all further conditions and restrictions set out in the arrangement and agreement and to cancellation by the Commissioner. R.O. 1958, c. 77, s. 21.

23. (1) Where a motor vehicle or trailer is registered or licensed at a place outside the Territory and is brought into the Territory

Permit for foreign motor vehicles delivering goods within the Territory

- (a) for the purpose of delivering inside the Territory goods loaded thereon;
- (b) for the purpose of being loaded inside the Territory with goods for delivery outside the Territory;
- (c) for both purposes set out in paragraphs (a) and (b); or
- (d) for the purpose of transporting goods through the Territory without loading or discharging any part of such goods inside the Territory;

the Registrar may, upon receiving application therefor by or on behalf of the owner and upon proof satisfactory to the Commissioner that the owner is adequately covered by a policy of motor vehicle liability insurance in respect of such motor vehicle or trailer, issue to the owner a permit.

(2) The application shall be made in the prescribed form and shall be accompanied by the prescribed fee.

Application

(3) A permit issued pursuant to paragraphs (1)(a), (1)(b), (1)(c) and (1)(d) is valid for only one trip.

(4) The applicant for the permit issued under subsection (1) shall display the windshield sticker upon the motor vehicle and cause the permit to remain with the motor vehicle for exhibition at the request of any officer.

(5) Subject to the full observance of the conditions set out in the permit during the period of the use or operation of the motor vehicle or trailer within the Territory, the obtaining of the permit shall be deemed a sufficient compliance with this Ordinance as to the registration and licensing of that motor vehicle or trailer while used within the Territory for the purpose herein mentioned during the period for which the permit was issued.

(6) Where a motor vehicle is registered or licensed at a place outside the Territory and, while transporting passengers for hire, is brought into the Territory for a purpose and during a limited period of time approved by the Registrar, the owner may,

- (a) upon application pursuant to subsection (1),
- (b) upon payment of the prescribed fee, and
- (c) upon proof satisfactory to the Commissioner that the owner has taken out a policy of motor vehicle liability insurance not less than the amount set out in subsection 9(1),

be issued a permit for the operation of that motor vehicle within the Territory for the like period with the like effect and subject to the conditions set out therein as in the case of a permit issued under subsection (1).

(7) Every person who drives or operates or is in charge of a motor vehicle or trailer in respect of which a permit has been issued under this section and who fails to observe any of the conditions set out in the permit is guilty of an offence. R.O. 1958, c. 77, s. 22; 1960 (3rd) c. 3, s. 10(1)-(4); 1962 (1st) c. 21, s. 1-2; 1971 (1st) c. 29, s. 12(1)-(2).

Vehicles of
visiting force
exempted

24. (1) The provisions of this Ordinance respecting the registration and licensing of motor vehicles do not apply to service vehicles of a visiting force as defined by the *Visiting Forces Act* of Canada nor shall any tax be payable in respect of the use of the said vehicles on a highway.

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

(3) Any vehicle so exempted may be issued licence plates indicating the purpose for which the vehicle is to be used. R.O. 1958, c. 77, s. 23; 1970 (1st) c. 5, s. 4.

PROHIBITIONS RESPECTING REGISTRATION AND NUMBER PLATES

25. (1) No person shallProhibition
respecting
number plates

- (a) deface or alter a number plate issued under this Ordinance;
- (b) use or permit the use on his motor vehicle or trailer of a defaced or altered number plate;
- (c) without the authority of the owner, remove a number plate of a motor vehicle or trailer;
- (d) unless otherwise permitted by this Ordinance, use or permit the use of a number plate on his motor vehicle or trailer other than the number plate issued under this Ordinance for that motor vehicle or trailer; or
- (e) fail to notify the Registrar within ten days, of the sale, exchange or other disposal by him of a motor vehicle or trailer as required by section 15 or of the purchase by him of a motor vehicle or trailer in respect of which a certificate of registration has been issued. R.O. 1958, c. 77, s. 24; 1965 (2nd) c. 5, s. 3.

PART II

OPERATORS' LICENCES

LICENCES

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

(2) Subsection (1) does not apply to a person who does not reside or carry on business in the Territory for more than ninety consecutive days in each year if he holds an operator's licence issued to him by his province, state or country of residence.

(3) Subsection (1) does not apply to a member of a visiting force as defined in the *Visiting Forces Act* of Canada if said member is in possession of:

- (a) a valid driving permit issued by the government of his country or a sub-division thereof, or
- (b) a military driving permit issued by the Department of National Defense. R.O. 1958, c. 77, s. 25; 1963 (2nd) c. 9, s. 2; 1965 (2nd) c. 5, s. 4; 1970 (1st) c. 5, s. 5-6.

27. (1) The Registrar may issue such class of operator's licence to a person who applies therefor for a period and

under such conditions as the Commissioner may prescribe. R.O. 1958, c. 77, s. 26; 1966 (2nd) c. 13, s. 1; 1970 (1st) c. 5, s. 7.

Applicant may
be examined

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

Examination fee

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

(3) Where the Registrar has reason to believe that the holder of an operator's licence is suffering from a condition that may make it dangerous for such person to operate a motor vehicle he may require such person to submit himself for a medical examination at the expense of the Registrar.

(4) If on receipt of the report of the medical examination referred to in subsection (3) the Registrar is satisfied that the holder of an operator's licence is suffering from a condition that may make it dangerous for such person to operate a motor vehicle he may suspend or cancel the licence.

(5) If the holder of an operator's licence neglects or refuses to submit himself for a medical examination on being required to do so by the Registrar pursuant to subsections (1) or (3) the Registrar may suspend the licence until such person submits himself to the required medical examination. R.O. 1958, c. 77, s. 27; 1960 (3rd) c. 3, s. 11; 1970 (1st) c. 5, s. 8; 1971 (1st) c. 29, s. 13.

Form of applica-
tion

29. (1) Every medical practitioner registered under the *Medical Profession Ordinance* and every optometrist registered under the *Optometry Ordinance* shall report to the Registrar the name, address and clinical condition of every person fifteen years of age or over attending upon the medical practitioner or optometrist for medical or optometric services who, in the opinion of such medical practitioner or optometrist, is suffering from a condition that may make it dangerous for such person to operate a motor vehicle.

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

(3) The report referred to in subsection (1) is privileged for the information of the Registrar only and shall not be open for public inspection, and such report is inadmissible in

evidence for any purpose in any trial except to prove compliance with subsection (1).

(4) All papers and other material relating to the report referred to in subsection (1) which are held by the Registrar shall be retained by him in a sealed file and shall not be open to inspection except with the consent of the Registrar or the Commissioner. R.O. 1958, c. 77, s. 28; 1970 (1st) c. 5, s. 9.

30. (1) Every application for an operator's licence shall be made in the prescribed form and shall be accompanied by the prescribed fee. R.O. 1958, c. 77, s. 29; 1960 (3rd) c. 3, s. 12; 1970 (1st) c. 5, s. 10; 1971 (1st) c. 29, s. 14. Licence fee

31. (1) An operator's licence is not valid until the person to whom the licence is issued has written his usual signature thereon in the space provided for that purpose. R.O. 1958, c. 77, s. 30; 1970 (1st) c. 5, s. 11. Signature on licence required

32. (1) Unless stated otherwise therein, an operator's licence expires on the last day of the fiscal year for which it was issued. R.O. 1958, c. 77, s. 31; 1970 (1st) c. 5, s. 12. Day of expiry

CANCELLATION AND SUSPENSION

33. (1) The Commissioner may suspend or cancel an operator's licence issued under this Ordinance if the licensee violates any of the provisions of this Ordinance or the regulations. R.O. 1958, c. 77, s. 32; 1970 (1st) c. 5, s. 13. Suspension and cancellation by Commissioner

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

- (a) an offence under section 233, 234, 235, 236, 238 or 295 of the *Criminal Code*,
- (b) the offence of manslaughter or criminal negligence under section 203 or 204 of the *Criminal Code* committed in either case by a person while operating a motor vehicle

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

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

- (a) an offence under this Ordinance;
 - (b) an offence under a provision of a municipal by-law that fixes a speed limit within a municipality; or
 - (c) an offence under a provision of the regulations;
- may, upon making the conviction, suspend or cancel the

licence and shall send the suspended or cancelled licence to the Commissioner, together with a report setting out the nature of the conviction and the circumstances of the offence. R.O. 1958, c. 77, s. 33; 1967 (2nd) c. 12, s. 4 (1)-(2); 1970 (1st) c. 5, s. 14.

RENEWAL OF LICENCES

Renewals

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

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

(2) No person who is a holder of an operator's licence shall apply for or obtain another operator's licence of the same class except for the purpose of obtaining a duplicate of a valid and subsisting licence that has been lost, destroyed or become worn out. R.O. 1958, c. 77, s. 34; 1960 (3rd) c. 3, s. 13 (1)-(2); 1970 (1st) c. 5, s. 15; 1971 (1st) c. 29, s. 15.

PROHIBITIONS

Not to allow unlicensed operation

36. (1) No person shall allow his motor vehicle to be driven by any person who is not entitled to drive such motor vehicle pursuant to this Ordinance. R.O. 1958, c. 77, s. 35; 1970 (1st) c. 5, s. 16.

Not to hire or rent to unauthorized operators

37. (1) No person shall hire or let for hire a motor vehicle unless the person by whom the motor vehicle is to be driven is authorized under this Ordinance to operate a motor vehicle. R.O. 1958, c. 77, s. 36.

Not to use licence of another etc.

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

(2) No person shall allow his operator's licence to be used by another person. R.O. 1958, c. 77, s. 38; 1970 (1st) c. 5, s. 17.

No person to apply for licence during period of suspension

39. (1) No person shall apply for, procure or attempt to procure an operator's licence during a period while he is disqualified or prohibited from driving a motor vehicle by reason of the suspension or cancellation of his licence. R.O. 1958, c. 77, s. 39; 1970 (1st) c. 5, s. 18.

PART III

EQUIPMENT

LIGHTS

40. (1) No person shall operate a vehicle on a highway during the night or at any time when fog or other atmospheric conditions reduce the degree of visibility to that approximating the degree of visibility existing under normal atmospheric night conditions or less, unless the vehicle is equipped with lighted lamps in accordance with this Part. Lamps at night

(2) For the purposes of this Part, "night" means the period of sunset to the next following sunrise. Meaning of "night"

(3) In this Part, requirements as to visibility of lamps in terms of distance from a vehicle means that the lamps are clearly visible at the stated distance under normal atmospheric night conditions. R.O. 1958, c. 77, s. 40. Visibility refers to normal atmospheric night conditions

41. (1) A motor vehicle, other than motorcycle or a pedal bicycle with motor attachment, shall be equipped with the following lamps: Requirements respecting lamps

- (a) not less than two headlamps, one at each side of the motor vehicle at the front, each of which projects a white light for a distance of at least three hundred feet in front of the motor vehicle ;
- (b) a tail lamp of not less than three candlepower that shows a red light plainly visible at a distance of at least two hundred feet behind the motor vehicle and illuminates, with a white light, the number plate fixed on the back of the motor vehicle so that its letters and figures are plainly visible at a distance of at least sixty feet behind the motor vehicle ; and
- (c) a stop lamp or lamp on the rear of the vehicle, which shall display a red light visible from a distance of not less than one hundred feet to the rear of the motor vehicle in normal sunlight and which can be lighted upon application of the foot brake.

(2) The headlamps of a motor vehicle shall not be more than fifty inches above the plane surface upon which the motor vehicle rests. Vertical position of headlamps

(3) No part of the direct, reflected or refracted light projected from a motor vehicle headlamp shall rise more than forty-two inches, at a distance of seventy-five feet in front of the motor vehicle, above the plane surface upon which it stands. Angle of head-lamp beam

- Special case (4) Where a motor vehicle, except a motor vehicle designed for the transportation of passengers and having a carrying capacity of less than 9 persons, or a trailer is more than twenty feet in length, or more than eighty inches in width, it shall have affixed in conspicuous positions
- (a) at least one lighted amber clearance light on each side of the front as near the top as practical ;
 - (b) at least one lighted red clearance light on each side of the rear as near the top as practical ; and
 - (c) at least one lighted red clearance light on each side of the rear as near the bottom as practical. R.O. 1958, c. 77, s. 41 ; 1960 (3rd) c. 3, s. 14(1)-(2).
- Lamps for motorcycles **42.** (1) A motorcycle or pedal bicycle with motor attachment shall carry one headlamp at the front and one tail lamp at the rear, but these lamps shall, in all respects, conform to the requirements respecting lamps set out in section 41. R.O. 1958, c. 77, s. 42.
- Lamps for bicycles **43.** (1) A bicycle, other than a pedal bicycle with motor attachment, shall carry a white lamp at the front and a red lamp or red reflector at the rear, each of which is clearly visible at a distance of at least two hundred feet. R.O. 1958, c. 77, s. 43.
- Lamps for trailers **44.** (1) A trailer shall carry at least one red lamp or reflector at the rear that is clearly visible at a distance of at least two hundred feet. R.O. 1958, c. 77, s. 44.
- Vehicles other than motor vehicles **45.** (1) A vehicle other than a motor vehicle, trailer or bicycle that is operated on a highway at night shall carry a lamp, showing white to the front and red to the rear, located on the left side of the vehicle and clearly visible at a distance of at least two hundred feet. R.O. 1958, c. 77, s. 45.
- Spotlights, etc. **46.** (1) No vehicle shall carry more than one spotlight, searchlight or other auxiliary lamp and the light from such spotlight, searchlight or other auxiliary lamp shall be directed towards the right of the travel portion of a highway.
- (2) This section does not apply to ambulances, police vehicles, salvage vehicles, road maintenance vehicles, public utilities vehicles or fire fighting vehicles operated on highways by authorized persons. R.O. 1958, c. 77, s. 46.
- Parking lights **47.** (1) Where any vehicle, machine or other obstruction is standing upon a highway at a time when lighted lamps are required to be displayed, it may, in lieu of the lights hereinbefore required, show a light on the left side of the vehicle, machine or other obstruction in such a manner as to be

clearly visible both to the front and back of the vehicle, machine or other obstruction from a distance of at least two hundred feet under normal atmospheric conditions and such a light shall show white or green only to the front and red only to the rear of the vehicle, machine or other obstruction. R.O. 1958, c. 77, s. 47.

48. (1) Where a motor vehicle, the gross weight of which is in excess of eight thousand pounds, is stopped on a highway during the period when lighted lamps are required to be displayed on vehicles and the lighting equipment required by this Ordinance is disabled and the vehicle cannot immediately be removed from the travelled portion of a highway outside of a municipality, the operator of the motor vehicle shall cause to be placed on the highway

Flares

- (a) two lighted flares, lamps or lanterns, or
- (b) two reflecting devices
 - (i) each reflector of which has a diameter of not less than two and one-half inches, and
 - (ii) casting a red reflection clearly visible under normal atmospheric conditions from a distance of at least five hundred feet.

(2) One of the flares, lamps, lanterns or reflecting devices mentioned in subsection (1) shall be placed at a distance of at least two hundred feet in advance of the vehicle, and the other shall be placed at a distance of at least two hundred feet to the rear of the vehicle; and where reflecting devices are so placed, each of them shall be so placed as to be illuminated by the lights of any approaching vehicle.

Location of flares, reflectors

(3) Every motor vehicle, with a gross weight in excess of eight thousand pounds shall carry at all times and in good working condition, and the driver of the vehicle shall on the request of an officer produce two flares, lamps or lanterns for the use mentioned in subsection (1). R.O. 1958, c. 77, s. 48.

Must carry flares

49. (1) Where a motor vehicle on a highway is approaching or is being approached by another vehicle proceeding in the opposite direction, and when within not less than four hundred yards of it, the driver of the motor vehicle, whether in motion or stationary, shall dim or drop the beams of its headlamps.

Dimming head lamps

(2) A motor vehicle may be equipped with lamps that may be lighted intermittently or in flashes as a signal to indicate that the vehicle is about to be turned to the right or left according as the lamps are lighted on the right or left side of the front and rear of the motor vehicle; and any such lamp

Directional signal light

that is affixed to the rear of the motor vehicle shall cast a red light.

(3) Except as authorized by this section, no person shall operate on a highway a vehicle that is equipped with any lamp that lights intermittently or in flashes.

(4) An ambulance, police vehicle or fire fighting vehicle may, when operated on a highway by an authorized person, be equipped with and use one or more lamps that cast a red light and that lights intermittently or in flashes.

(5) A vehicle designed for use as a recovery vehicle or designed for use in highway construction or as a snowplough or for highway maintenance may be equipped with one or more lamps that cast an amber light and that lights intermittently or in flashes.

(6) No person shall operate on a highway a vehicle referred to in subsection (5) that is actually engaged in the work of recovery, highway construction, snowploughing or highway maintenance unless that vehicle is showing a flashing amber light that is clearly visible in both directions on the highway.

(7) A vehicle being used by a member of the press for news gathering purposes may on the authorization of the Registrar, be equipped with one or more lamps that cast a blue light and that lights intermittently or in flashes. R.O. 1958, c. 77, s. 49; 1960 (3rd) c. 3, s. 15; 1961 (1st) c. 5, s. 2; 1966 (2nd) c. 13, s. 3-4; 1970 (1st) c. 5, s. 19; 1970 (2nd) c. 7, s. 2.

Municipal
by-laws
Brakes

BRAKES

50. (1) Every motor vehicle shall be equipped with brakes adequate to control it at all times.

Inspection

(2) Every person operating a motor vehicle on a highway shall upon request of any officer permit the officer to inspect and test the brakes of the motor vehicle or, at the option of the officer, shall operate the motor vehicle as directed by him for the purpose of inspecting and testing the brakes.

Standards

(3) No brakes shall be deemed to be adequate within the meaning of this section unless they are so constructed and adjusted as to be capable of stopping the motor vehicle, whether loaded or unloaded, when operated on a dry, hard, level highway within the following distances and in respect of the following speeds of the motor vehicle, namely :

(a) where a motor vehicle, whether loaded or unloaded, carries service brakes on both axles, within thirty-seven feet from a speed of twenty miles per hour upon application of the service brakes alone ; and

(b) where a motor vehicle, whether loaded or unloaded, carries service brakes on one axle only, within forty-five feet from a speed of twenty miles per hour upon application of the service brakes alone.

(4) The brakes carried by a motor vehicle shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the motor vehicle so as to prevent it from swerving, pulling to one side, and otherwise affecting the operator's control on application of the brakes. Idem

(5) Where a motor vehicle, having a trailer in tow where the combined weight of the trailer and its load, but exclusive of passengers, exceeds one thousand five hundred pounds, or where the weight of the trailer exceeds fifty per cent of the weight of the towing vehicle, the trailer shall be equipped with brakes capable of being operated by the operator of the towing vehicle when he is seated in the driver's seat. Trailer brakes

(6) The combined brakes of the towing vehicle and the trailer shall be so constructed and adjusted as to be capable of stopping the combination of vehicles whether loaded or unloaded when operated on a dry, hard, level highway within a distance of thirty-seven feet from a speed of twenty miles per hour. Standards

(7) The combined brakes of the towing vehicle and the trailer shall be so adjusted as to prevent side-sway or jack-knifing when applied. Idem

(8) Every motor vehicle shall carry an emergency brake so constructed and adjusted that it is capable of holding the vehicle or combination of vehicles stationary upon any grade upon which the vehicle or combination of vehicles is operated and in any event upon any plus or minus grade of at least five per cent. R.O. 1958, c. 77, s. 50. Emergency brake

OTHER EQUIPMENT

51. (1) Every motor vehicle shall carry a suitable horn, bell or warning device in good working order capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet. Horn

(2) The horn shall be sounded whenever it is reasonably necessary as a signal or warning to any person of the approach of the motor vehicle. Sounding

(3) No horn commonly known as a siren horn shall be carried or used on any motor vehicle other than an ambulance, civil defence vehicle or a motor vehicle operated by the Royal Canadian Mounted Police or a fire department. Sirens

- Prohibited equipment** (4) No exhaust, compression or spark-plug whistle shall be carried or used on any motor vehicle.
- Unnecessary sounding** (5) Except as a reasonable warning no person shall at any time sound or use the horn, bell or warning device of a motor vehicle in order to make any unnecessary or unreasonably loud or harsh sound. R.O. 1958, c. 77, s. 51.
- Muffler** **52.** (1) Every motor vehicle propelled by an internal combustion engine shall be equipped with an exhaust muffler consisting of a series of pipes or chambers so proportioned and constructed as to allow the exhaust gases from the engine to expand and cool to a degree of noiseless expulsion; and the muffler shall not be cut out or disconnected while the motor vehicle is in operation on any highway.
- Prohibition** (2) No motor vehicle, the muffler of which has had any baffle-plate or other part for the suppression of exhaust noises removed or the exhaust outlet opened so as to create more noise, shall be operated on any highway, nor shall any device be attached to a motor vehicle muffler or exhaust system which will increase the noise of the exhaust or cause a flame to be emitted therefrom. R.O. 1958, c. 77, s. 52.
- Condition of windshields** **53.** (1) No person shall operate upon a highway any motor vehicle the windshield or windows of which are in such a condition as to impair the operator's vision. R.O. 1958, c. 77, s. 53.
- Windshield stickers** **54.** (1) No person shall operate any motor vehicle with a sticker, sign, poster or other non-transparent material placed over, or affixed to the windshield, side wings or side or rear windows that unduly obstructs the driver's clear view of the highway or any intersecting highway. R.O. 1958, c. 77, s. 54.
- Windshield wipers** **55.** (1) No person shall operate any motor vehicle other than a motorcycle that is equipped with a windshield unless the windshield has installed thereon a device for cleaning dust, rain, snow or other moisture from it; and such device shall be so constructed as to be controlled or operated by the operator of the motor vehicle while the vehicle is in motion and maintained in good working order. R.O. 1958, c. 77, s. 55.
- Safety glass** **56.** (1) No person shall replace any glass in doors, windows or windshields of motor vehicles other than motorcycles unless such replacement is made with safety glass. R.O. 1958, c. 77, s. 56.
- Obstruction of view** **57.** (1) No person shall operate a motor vehicle that carries any equipment, fixture or load in such a manner or

position as to interfere with or obstruct the operator's clear view of the highway or intersection. R.O. 1958, c. 77, s. 57.

58. (1) No person shall operate a motor vehicle unless it carries a mirror so located as to reflect to the driver a view of the highway at least two hundred feet distant to the rear of the motor vehicle. Mirrors

(2) No person shall operate a motor vehicle having a trailer in tow if the trailer or any load thereon obstructs the view of the driver to the rear unless the towing motor vehicle is equipped with two mirrors, one of the mirrors being located on the left front door, or on the left windshield post or on a projecting rod to the left of the motor vehicle, and the other mirror being located on the right front door, or on the right windshield post or on a projecting rod to the right of the motor vehicle, and unless both mirrors are so adjusted as to reflect to the driver a view of the highway for a distance of at least two hundred feet to the rear of the trailer. R.O. 1958, c. 77, s. 58. Idem.

59. (1) No person shall operate any motor vehicle or trailer that carries anything projecting more than four feet from the rear of the motor vehicle or trailer unless there is attached and displayed at the end of the projection Red flag or red light

- (a) during the day a red flag not less than twelve inches square, or
- (b) during the night a red light plainly visible under normal conditions for five hundred feet to the rear of the motor vehicle or trailer.

(2) No person shall, without the written permission of the Registrar, operate upon a highway a vehicle including load having a width greater than ninety-six inches. R.O. 1958, c. 77, s. 59.

60. (1) Every person commits an offence who, with intent to deceive or defraud the public or any person, whether ascertained or not, changes the number of miles recorded on the odometer of a motor vehicle to a lesser number. 1971 (1st) c. 29, s. 16.

61. (1) In a prosecution under this section, evidence that the number of miles recorded on the odometer of a motor vehicle at the time of a sale of the motor vehicle is less than the number recorded prior to the sale is *prima facie* evidence that the vendor changed the number with intent to deceive or defraud the purchaser. 1971 (1st) c. 29, s. 16.

62. (1) No person shall operate any motor vehicle and trailer on a highway unless the device coupling the motor Coupling devices

vehicle and the trailer is of such construction and strength as to hold the weight of the trailer and prevent a break-away.

Idem. (2) The coupling device mentioned in subsection (1) shall be firmly affixed to an integral part of the vehicle of both the towing vehicle and the trailer.

Idem. (3) Every trailer shall have, in addition to the main coupling device, an auxiliary hitch consisting of a chain or metal cable equivalent in strength to the main coupling device. R.O. 1958, c. 77, s. 60.

Mudguards **63.** (1) Every motor vehicle and every trailer on a highway shall carry mudguards or fenders adequate to reduce effectively the wheel spray or splash of water from the roadway to the rear thereof, unless adequate protection is afforded by the body of the motor vehicle or trailer or by a trailer drawn by the motor vehicle.

Rock guards (2) Every truck or trailer having a manufacturer's rating of one ton or more shall carry rock guards at the rear of such truck or trailer. R.O. 1958, c. 77, s. 61.

Operator to wear safety helmet **64.** (1) No person shall operate a motorcycle unless he is wearing a safety helmet securely attached on his head.

Passenger to wear safety helmet (2) No person shall ride as a passenger on a motorcycle, unless he is wearing a safety helmet securely attached on his head.

To ride only on permanent seat (3) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for 2 persons, or upon another seat firmly attached to the rear or side of the operator. 1967 (2nd) c. 12, s. 5.

PART IV

RULES OF THE ROAD

INTERPRETATION

Definitions **65.** (1) In this Part

"business district" means the territory contiguous to any portion of a highway having a length of six hundred feet along which there are buildings in use for business, industrial or public purposes occupying

(i) at least three hundred feet of frontage on one side of that portion, or

(ii) at least three hundred feet collectively on both sides of that portion,

and includes that portion of the highway ;

“controlled access highway” means a highway

“controlled access highway”

(i) on to which persons have a right to enter from abutting land, and

(ii) from which persons have a right to enter on to abutting land,

only at fixed locations ;

“crosswalk” means

“crosswalk”

(i) any portion of the roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs or by lines or other markings on the surface, or

(ii) the portion of a highway at an intersection that is included within the connection of the lateral lines of the sidewalks on the opposite sides of the highway, measured from the curbs, or in the absence of curbs, from the edges of the travelled portion of the highway ;

“emergency vehicle” means a vehicle used

“emergency vehicle”

(i) for police duty,

(ii) by a fire department, or

(iii) as an ambulance.

“laned roadway” means a roadway that is divided into two or more marked lanes for vehicular traffic ;

“laned roadway”

“owner” as applied to a vehicle means

“owner”

(i) the person who holds the legal title to the vehicle,

(ii) a person who is a conditional vendee, a lessee or a mortgagor, and is entitled to be and is in possession of the vehicle, or

(iii) the person in whose name the vehicle is registered ;

“park”, when prohibited, means the standing of a vehicle, whether occupied or not, except when standing temporarily for the purpose of and while actually engaged in loading or unloading ;

“park”

“pedestrian” means a person afoot, or an invalid or child in a wheelchair or carriage ;

“pedestrian”

“residence district” means the territory contiguous to any portion of a highway having a length of three hundred feet along which there are buildings in use for residence purposes only or for residence and business purposes occupying

“residence district”

(i) at least one hundred and fifty feet of frontage on one side of that portion, or

- (ii) at least one hundred and fifty feet collectively on both sides of that portion,
and includes that portion of the highway ;
- "roadway" "roadway" means the portion of the highway that is improved, designed or ordinarily used for vehicular traffic, but does not include the shoulder, and where a highway includes two or more separate roadways, the term "roadway" refers to any one roadway separately and not to all of the roadways collectively ;
- "safety zone" "safety zone" means an area officially set apart within a highway for the exclusive use of pedestrians, and protected or marked or indicated by adequate signs so as to be clearly visible ;
- "school bus" "school bus" means a motor vehicle used for conveyance of children to or from school by or under a contract with the authority in charge of the school ;
- "sidewalk" "sidewalk" means the portion of a highway between the curb lines or lateral lines of a roadway and the adjacent property lines intended for use of pedestrians ;
- "stop" or "stand" "stop" or "stand" means
 - (i) when required, a complete cessation from movement, and
 - (ii) when prohibited, the stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a traffic officer or traffic control device ;
- "territorial highway" "territorial highway" means a highway within the Territory that is not under the jurisdiction of a municipality and is not privately owned ;
- "through-highway" "through-highway" means a highway or part of a highway at the entrances to which stop signs are erected under this Ordinance ;
- "traffic" "traffic" includes pedestrians, ridden or herded animals, vehicles and other conveyances, either singly or together, while using a highway for purposes of travel ;
- "traffic control device" "traffic control device" means a sign, signal, marking or device not inconsistent with this Part placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic ;
- "traffic control signal" "traffic control signal" means a device, whether manually, electrically or mechanically operated, by which traffic is directed to stop and to proceed ; and

“traffic officer” means a person lawfully authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. R.O. 1958, c. 77, s. 62. “traffic officer”

APPLICATION

- 66. (1)** Unless the context otherwise requires,
- (a) the provisions of this Part relating to the operation of vehicles refer only to the operation of vehicles upon a highway;
 - (b) the provisions of this Part do not apply to persons, vehicles and other equipment while actually engaged in highway construction or maintenance work upon, under or over the surface of a highway while at the site of the work, but do apply to them when travelling to or from the site of the work; and
 - (c) a person riding an animal or driving an animal-drawn vehicle upon a highway has all the rights and is subject to all the duties that a driver of a vehicle has under this Part. R.O. 1958, c. 77, s. 63.
- Provisions apply only to vehicles on highway
- Riding animals on highway

67. (1) Notwithstanding anything in this Part, but subject to subsections (2) and (3), a driver of an emergency vehicle, when responding to, but not when returning from, an emergency call or alarm, or when in pursuit of an actual or suspected violator of the law, may

Emergency vehicles

- (a) exceed the speed limit;
- (b) proceed past a red traffic control signal or stop sign without stopping;
- (c) disregard rules and traffic control devices governing direction of movement or turning in specified directions; and
- (d) stop or stand.

(2) The driver of an emergency vehicle shall not exercise the privileges granted by subsection (1) unless he is sounding an audible signal by bell, siren or exhaust whistle and is showing a flashing red light.

(3) The driver of an emergency vehicle exercising any of the privileges granted by subsection (1) shall drive with due regard for safety having regard to all the circumstances of the case, including

- (a) the nature, condition and use of the highway;
- (b) the amount of traffic that is or might reasonably be expected to be on the highway; and

(c) the nature of the use being made of the emergency vehicle at the time. R.O. 1958, c. 77, s. 64.

Traffic officer
may direct
traffic

68. (1) Where a traffic officer reasonably considers it necessary

- (a) to ensure orderly movement of traffic;
- (b) to prevent injury or damage to persons or property; or
- (c) to permit proper action in an emergency;

he may direct traffic according to his discretion, notwithstanding anything in this Part, and every person shall obey his directions. R.O. 1958, c. 77, s. 65.

TRAFFIC CONTROL DEVICES AND SIGNALS

Driver to obey
traffic control
device

69. (1) Except when otherwise directed by a traffic officer, a driver of a vehicle shall obey the instructions of an applicable traffic control device. R.O. 1958, c. 77, s. 66.

Rules as to
traffic control
devices

70. (1) Drivers of vehicles and pedestrians shall obey the instructions of an official traffic control signal in accordance with the provisions of this section, unless directed to do otherwise by a traffic officer.

(2) When a green or "go" traffic control signal is shown at an intersection,

(a) the driver of a vehicle approaching the intersection and facing the traffic control signal

(i) may proceed across the intersection or turn left or right subject to a sign or notice prohibiting a left or right turn or both that is posted at the intersection, and

(ii) shall yield the right of way, if turning left or right, to other vehicles and pedestrians lawfully within the intersection or within an adjacent crosswalk at the time the signal is shown;

(b) a pedestrian approaching the intersection and facing the traffic control signal may proceed across the intersection or cross the intersection in the crosswalk provided, if any, subject to any pedestrian control signal directing him otherwise; and

(c) a pedestrian proceeding across the intersection or crossing the intersection in the crosswalk provided, if any, has a right of way over all vehicles turning into the crosswalk he is using or into his line of passage across the intersection.

(3) When a yellow or amber traffic control signal is shown at an intersection following a green or "go" signal,

- (a) the driver of a vehicle approaching the intersection and facing the yellow or amber traffic control signal shall stop his vehicle immediately before entering the intersection or the nearest crosswalk, if any, in the intersection unless a stop cannot be made in safety; and
- (b) a pedestrian
 - (i) if intending to cross the intersection in the direction of the yellow or amber traffic control signal shall not commence to cross the intersection until a pedestrian or traffic control signal permitting him to enter the intersection is shown, and
 - (ii) if proceeding across the intersection and facing a yellow or amber traffic control signal displayed after he entered the intersection
 - (A) shall proceed to the sidewalk as quickly as possible, and
 - (B) has a right of way for that purpose over all vehicles in the intersection.

(4) When a red or "stop" traffic control signal is shown at an intersection following a yellow or amber traffic control signal.

- (a) the driver of a vehicle approaching the intersection and facing the red or "stop" traffic control signal
 - (i) shall stop his vehicle immediately before entering the intersection or the nearest crosswalk, if any, in the intersection; and
 - (ii) except as provided by subparagraph (iii) herein shall not proceed until a traffic control signal permitting the movement of a vehicle in the intersection is shown; and
 - (iii) notwithstanding subparagraph (ii) herein, the driver of a vehicle may after he has stopped his vehicle turn right subject to any sign or notice prohibiting a right turn that is posted at the intersection if such right turn may be made in safety and subject to such driver yielding the right of way to all vehicles and pedestrians within the intersection; and
- (b) a pedestrian
 - (i) if approaching the intersection and facing the red or "stop" traffic control signal, or
 - (ii) if intending to cross the highway in the direction of the red or "stop" traffic control signal.

shall not commence to cross the intersection until a pedestrian or a traffic control signal permitting him to enter the intersection is shown.

(5) When a red flashing traffic control signal is shown at an intersection,

(a) the driver of a vehicle approaching the intersection and facing the traffic control signal

(i) shall stop his vehicle immediately before entering the intersection or the nearest crosswalk, if any, at the intersection, and

(ii) may, after stopping, enter or cross the intersection only if traffic conditions in the intersection or the crosswalk, if any, are such that the vehicle can enter and cross the intersection with safety; and

(b) a pedestrian facing the traffic control signal may proceed across the intersection with caution.

(6) When a yellow or amber flashing traffic control signal is shown at an intersection,

(a) the driver of a vehicle approaching the intersection and facing the traffic control signal

(i) may enter the intersection only with caution, and

(ii) shall yield the right of way to all vehicles and pedestrians within the intersection, and

(b) a pedestrian facing the traffic control signal may proceed across the intersection with caution. R.O. 1958, c. 77, s. 67; 1969 (2nd), c. 8, s. 1.

No person can erect a device that resembles a traffic control device

71. (1) No person shall erect or maintain upon or in view of a highway a device that purports to be, resembles or interferes with the effectiveness of a traffic control device, unless he is authorized to do so by a traffic authority. R.O. 1958, c. 77, s. 68.

Commercial advertising

72. (1) No person shall place or maintain commercial advertising upon a traffic control device. R.O. 1958, c. 77, s. 69.

Altering or destroying traffic signs

73. (1) Except with lawful authority, no person shall alter, injure or remove or attempt to alter, injure or remove a traffic control device or any part thereof. R.O. 1958, c. 77, s. 70.

ACCIDENTS

Person in charge of vehicle to remain at scene of accident, etc.

74. (1) Where an accident occurs on a highway, every person who was in charge of a vehicle and was directly or indirectly a party to the accident shall

- (a) remain at or immediately return to the scene of the accident;
- (b) render all reasonable assistance to any person involved in the accident; and
- (c) give in writing upon request to any one sustaining loss or injury or to any traffic officer or to any witness his name and address, the name and address of the registered owner of the vehicle, the number of the driver's licence and the registration number of the motor vehicle.

(2) Where an accident results in damage to an unattended vehicle or to property upon or adjacent to a highway, the driver of every vehicle involved in the accident shall take reasonable steps to locate and notify the owner of, or a person who has a right to control, the unattended vehicle or the property of the circumstances of the accident, and give to him the name and address of the driver, the registration number of the vehicle and the number of the driver's licence. R.O. 1958, c. 77, s. 71.

75. (1) Subject to subsection (2), where an accident results in injury or death to a person or in property damage to an apparent extent of two hundred dollars or more, the driver shall forthwith make a written report, in the form prescribed by the Commissioner to the nearest detachment of the Royal Canadian Mounted Police.

Written report
required

(2) Where the driver is incapable of making the report required by subsection (1), and there is another occupant of the vehicle capable of making the report, the occupant shall make the report required to be made by the driver.

(3) Where no report has been made under subsection (1) or (2) and the driver or occupant is not the owner of the vehicle, the owner shall forthwith after learning of the accident make the report.

(4) Where the driver is alone, is the owner, and is incapable of making the report required by subsection (1), he shall make the report forthwith after becoming capable of making it. R.O. 1958, c. 77, s. 72; 1969 (2nd) c. 8, s. 2.

76. (1) A member of the Royal Canadian Mounted Police or a traffic officer who has witnessed or investigated an accident shall forthwith forward to the Commissioner a written report in the form prescribed by the Registrar setting forth full particulars of the accident including the names and addresses of the persons involved and the extent of the personal injuries or property damage.

Investigating
officer to make a
report to
Commissioner

(2) Where a report has been made under section 74, 75 or this section, the Commissioner may require the driver involved or a traffic officer or person having knowledge of the accident to furnish additional information or to make a supplementary report. R.O. 1958, c. 77, s. 73.

Report by owner of a repair shop, etc.

77. (1) Where a motor vehicle that shows evidence of having been involved in a serious accident or having been struck by a bullet is brought into a public garage, parking station, parking lot, used-car lot or repair shop, the person in charge of the place into which the vehicle is brought shall forthwith report that fact to the nearest detachment of the Royal Canadian Mounted Police, giving the name and address of the owner or operator and also the registration number and a description of the vehicle.

Coroner's report

(2) A coroner or other official performing like functions, who investigates or holds an inquest or inquiry respecting the death of a person from an accident in which a vehicle was involved, shall immediately, upon the conclusion of his investigation, inquest or inquiry, make a written report to the Commissioner giving the time and place of the accident, the name of the person killed and the name and address of the driver of the vehicle involved.

Duty of insurance companies to report to Commissioner

(3) Where an insurance company receives a claim under a motor vehicle liability policy in respect of personal injuries or property damage exceeding two hundred dollars, the company shall forthwith notify the Commissioner and shall furnish him such information as he may require. R.O. 1958, c. 77, s. 74; 1969 (2nd) c. 8, s. 3.

Reports to be privileged

78. (1) A written report or statement made or furnished under sections 74, 75, 76 or 77

- (a) is not open to public inspection; and
- (b) is not admissible in evidence for any purpose in a trial arising out of the accident except to prove
 - (i) compliance with this section, or
 - (ii) falsity in a prosecution for making a false statement;

but the Commissioner shall, on the request of a person involved in the accident, his solicitor or agent furnish him with a copy of the report upon payment of the prescribed fee.

(2) No person shall make a false statement in a report made or purporting to be made under section 74, 75, 76 or 77.

(3) In a prosecution for violation of section 74, 75, 76 or 77, a certificate purporting to be signed by the Commissioner or person authorized by him that any report therein required

has or has not been made is *prima facie* proof of the facts stated in the certificate.

(4) In a prosecution for failure to make a report required by section 74, 75, 76 or 77 in respect of an accident, the place of the offence shall be deemed to be the place where the accident occurred. R.O. 1958, c. 77, s. 75; 1971 (1st) c. 29, s. 17.

SPEED RESTRICTIONS

79. (1) No person shall drive a vehicle without due care and attention or without reasonable consideration for other persons. Duty to drive with care

(2) No person shall drive a motor vehicle upon a highway at a greater rate of speed than Person deemed to be driving without due care and attention

(a) thirty miles an hour within a municipality or settlement; or

(b) the maximum speed designated by signs erected along the highway under sections 156 and 162.

(3) No person shall drive a motor vehicle upon a highway in the Territory outside municipalities or settlements at a greater rate of speed than sixty miles per hour unless otherwise posted. Speed outside municipalities

(4) Notwithstanding anything to the contrary in this section contained a municipality may establish by by-law a lower maximum speed than thirty miles an hour for any highway or portion of a highway in its jurisdiction. R.O. 1958, c. 77, s. 76; 1961 (2nd) c. 7, s. 1; 1963 (2nd) c. 9, s. 6-7; 1965 (2nd) c. 5, s. 5.

80. (1) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable flow of traffic, except when it is necessary to do so for safe operation or to comply with this Part. Driving so as to impede traffic

(2) Where the driver of a motor vehicle is driving at such a slow speed that he is impeding or blocking the normal and reasonable movement of traffic, a traffic officer may require him to increase his rate of speed or to remove the vehicle from the highway. R.O. 1958, c. 77, s. 77.

DRIVING ON RIGHT SIDE OF ROADWAY OVERTAKING AND PASSING

81. (1) A driver shall drive a vehicle upon the right-hand half of the travelled portion of the highway, if the highway is of sufficient width and it is practicable to do so, except Duty to drive on right

(a) when overtaking and passing another vehicle proceeding in the same direction;

- (b) when the right-hand half of the highway is closed to traffic while under construction or repair; or
- (c) upon a highway designated and marked by signs for one-way traffic.

(2) A driver who is proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall drive in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left-hand turn at an intersection or into a private road or driveway.

(3) A driver, when passing around a rotary traffic island, shall drive to the right of the island. R.O. 1958, c. 77, s. 78.

Rules when driving on a laned roadway

82. (1) The following provisions apply to a driver who is driving a vehicle on a laned roadway, namely,

- (a) he may drive from one lane to another where one or more broken lines only exist between lanes;
- (b) except as provided in paragraph (c), he shall not drive from one lane to another where such action necessitates the crossing of a solid line;
- (c) when a solid line and a broken line exist together, he may, with extra caution, cross the solid line from the lane in which the broken line is located, and re-cross;
- (d) he shall not drive from one lane to another on the same side of the centre line of the roadway, without first signalling his intention to do so by hand and arm or approved mechanical device, in the manner prescribed by sections 96 and 97;
- (e) when approaching an intersection intending to turn left he shall travel in the centre lane or in the lane nearest the centre of the roadway on the right-hand half of the highway;
- (f) when approaching an intersection intending to turn right he shall travel in the lane nearest to the right-hand side of the roadway and may pass another vehicle travelling in the same direction in a lane to his left;
- (g) he shall not use the centre lane of a three-lane roadway except when passing another vehicle proceeding in the same direction or when approaching an intersection where he intends to turn to the left;
- (h) when overtaking another vehicle that is travelling in the same direction in a place where there are two lanes on the same side of the centre line for vehicles travelling in that direction, he shall in passing keep to the

left of the other vehicle and to the right of the centre line;

- (i) where a traffic control device directs slow-moving traffic to use a designated lane, when driving slowly he shall use that lane only; and
- (j) when being overtaken by another vehicle travelling in the same direction he shall allow that vehicle to pass and shall travel in the lane nearest to the right-hand side of the roadway or in a manner that allows the overtaking vehicle free passage in the centre lane or in the lane nearest to the centre of the roadway. R.O. 1958, c. 77, s. 79.

83. (1) The driver of a vehicle shall keep to his right when he is meeting another vehicle that is moving.

Duty to keep to right on meeting a moving vehicle

(2) The driver of a vehicle upon a highway that has a width for only one line of traffic in each direction shall, when meeting another vehicle that is moving, give to the other vehicle at least one-half of the main-travelled portion of the highway as nearly as possible. R.O. 1958, c. 77, s. 80.

84. (1) Except as provided in section 85, a driver overtaking another vehicle,

Overtaking

- (a) shall sound an audible signal;
- (b) shall pass to its left at a safe distance; and
- (c) shall not return to the right side of the highway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, a driver of an overtaken vehicle,

- (a) upon hearing the audible signal, shall give way to the right in favour of the overtaking vehicle; and
- (b) shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. R.O. 1958, c. 77, s. 81.

85. (1) A driver shall not overtake and pass upon the right of another vehicle except

Passing and overtaking

- (a) when the vehicle overtaken is making a left turn or its driver has signalled his intention to make a left turn;
- (b) when on a laned roadway there are two or more unobstructed lanes on the side of the roadway on which he is permitted to drive; or
- (c) upon a one-way street, or upon a highway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and is of sufficient width for three or more lines of moving vehicles.

(2) Notwithstanding subsection (1), no driver shall overtake and pass another vehicle upon the right,

- (a) when the movement cannot be made safely ; or
- (b) by driving off the roadway. R.O. 1958, c. 77, s. 82.

Driving on left while passing

86. (1) No driver shall drive to the left side in overtaking and passing another vehicle unless the left side of the highway is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of another vehicle. R.O. 1958, c. 77, s. 83.

Way must be clear before driving on left

87. (1) No driver shall drive to or upon the left side of the highway, other than a one-way highway, when he has not a clear view of the highway for a safe distance having regard for all the circumstances. R.O. 1958, c. 77, s. 84.

Driver to obey signals

88. (1) Where all or a portion of a highway has been marked by a sign as a zone in which passing is prohibited or a zone limited to driving on the right-hand side of the roadway, a driver shall obey the instructions on the sign.

(2) Where the Commissioner or a traffic authority has designated and marked by signs a highway for one-way traffic, a driver on that highway shall drive only in the direction designated. R.O. 1958, c. 77, s. 85.

No driver to follow another vehicle too closely

89. (1) No driver shall follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of the vehicles, and the amount and nature of traffic upon and the condition of the highway.

(2) Where a truck or a motor vehicle that is drawing another vehicle (in this subsection called the "following vehicle") is following a truck or a motor vehicle drawing another vehicle (in this subsection called the "leading vehicle") outside a business or residence district, the driver of the following vehicle, unless he intends to overtake and pass the leading vehicle, shall, if conditions permit, leave sufficient space (in any event not less than two hundred feet) between his vehicle and the leading vehicle so that a vehicle overtaking the following vehicle may enter and occupy that space without danger.

(3) The driver of a motor vehicle in a caravan or motorcade, other than a funeral procession, outside a business or residence district, shall leave sufficient space between his vehicle and another vehicle or combination of vehicles to enable a vehicle to enter and occupy that space without danger. R.O. 1958, c. 77, s. 86.

90. (1) Where a highway has been divided into two roadways by an intervening space or a physical barrier or clearly indicated dividing section constructed so that it impedes vehicular traffic, no driver shall drive a vehicle over, across or within the intervening space, barrier or dividing section, except at a crossover of intersection established by a traffic authority. R.O. 1958, c. 77, s. 87.

Highways
divided by a
space or barrier

91. (1) Where on a controlled access highway there is a sign indicating a location at which vehicles are permitted to enter, no person shall drive a vehicle onto the highway except at that location.

Controlled
access highway

(2) Where on a controlled access highway there is a sign indicating a location at which vehicles are permitted to leave, no person shall drive from the highway except at that location. R.O. 1958, c. 77, s. 88.

TURNING, STARTING AND SIGNALS

92. (1) When a driver intends to turn right at an intersection he shall approach the intersection and make the turn as close as practicable to the right-hand curb or edge of the roadway.

Turning

(2) When a driver intends to turn left at an intersection where traffic is permitted to move in both directions on each highway entering the intersection, he shall

- (a) approach the intersection in the portion of the right half of the highway that is nearest its centre line;
- (b) keep to the right of the centre line at the place where it enters the intersection;
- (c) after entering the intersection, make a left turn so as to leave the intersection at a point to the right of the centre of the highway being entered; and
- (d) when practicable make the left turn in the portion of the intersection to the left of the centre of the intersection.

(3) When a driver intends to turn left at an intersection where traffic is restricted to one direction on one or more of the highways, he shall approach the intersection in the extreme left-hand lane available to traffic moving in the direction of travel of the vehicle, and after entering the intersection he shall make the left turn so as to leave the intersection as nearly as practicable in the left-hand lane available to traffic moving in its permitted direction upon the highway being entered.

(4) Where at an intersection there is a traffic control device indicating the course to be travelled by drivers turning at the

intersection, no driver shall turn a vehicle at the intersection in a manner other than as directed by the traffic control device. R.O. 1958, c. 77, s. 89.

U-turns

93. (1) No driver shall turn a vehicle so as to proceed in the opposite direction

(a) unless he can do so without interfering with the other traffic; or

(b) when he is driving

(i) upon a curve,

(ii) upon an approach to or near the crest of a grade where the vehicle cannot be seen by the driver of another vehicle approaching from either direction within five hundred feet, or

(iii) at a place where a sign prohibits making a U-turn. R.O. 1958, c. 77, s. 90.

Moving vehicles

94. (1) No person shall cause a vehicle to move unless and until the movement can be made with reasonable safety. R.O. 1958, c. 77, s. 91.

Turning at intersections, etc.

95. (1) No person shall turn a vehicle at an intersection unless the vehicle is in the position upon the highway required by section 92.

(2) No person shall turn a vehicle to enter a private road or driveway, or otherwise turn a vehicle from a direct course, or move right or left upon a highway, unless and until the movement can be made with reasonable safety.

(3) Where traffic may be affected by turning a vehicle no person shall turn a vehicle without giving the appropriate signal under sections 96 and 97.

(4) Where a signal of intention to turn right or left is required, a driver shall give the signal continuously for sufficient distance before making the turn to warn traffic.

(5) When there is an opportunity to give a signal, no driver shall stop or suddenly decrease the speed of a vehicle without first giving the appropriate signal under sections 96 and 97. R.O. 1958, c. 77, s. 92.

Signals

96. (1) Subject to subsection (2), where a signal is required a driver shall give it by means of

(a) his hand and arm.

(b) a signal lamp of a type that has been approved by the Commissioner, or

(c) a mechanical device of a type that has been approved by the Commissioner.

(2) When a vehicle is constructed or loaded in a manner that makes a signal by hand and arm not visible both to its front and rear, a driver shall give signals as provided by paragraph (1)(b) or (1)(c). R.O. 1958, c. 77, s. 93.

97. (1) When a driver of a left-hand drive vehicle gives a signal by hand and arm he shall do so from the left side and shall signify Left-hand drive vehicles

- (a) a left turn, by extending his left hand and arm horizontally from the vehicle;
- (b) a right turn, by extending his left hand and arm out and upward from the vehicle; and
- (c) a stop or decrease in speed, by extending his left hand and arm out and downward from the vehicle.

(2) No person shall drive a right-hand drive vehicle upon a highway unless

- (a) the vehicle is equipped with a mechanical or electrical device that has been approved by the Commissioner; or
- (b) there is prominently displayed on the rear of the vehicle in bold face letters not less than two inches in height and of a color contrasting with that of the vehicle the words "Right-Hand Drive Vehicle." R.O. 1958, c. 77, s. 94.

RIGHT OF WAY

98. (1) Except as provided in section 100, where two vehicles approach or enter an intersection from different highways at approximately the same time and there are no "Yield" signs, a driver shall yield the right-of-way to the vehicle that is on his right, but where there is a "Yield" sign, the driver facing the sign shall yield the right-of-way to all other traffic. R.O. 1958, c. 77, s. 95; 1967 (2nd) c. 12, s. 6. Where no signs vehicle on right to have right of way

99. (1) When a driver is within an intersection and intends to turn left he shall yield the right-of-way to traffic that is approaching from the opposite direction and is within the intersection or so close that it constitutes an immediate hazard, but having yielded and given a signal as required by sections 96 and 97, the driver may make a left turn and traffic approaching the intersection from the opposite direction shall yield the right-of-way to the vehicle making the left turn. R.O. 1958, c. 77, s. 96. Driver turning left at intersections to approaching traffic

100. (1) Where a driver who is about to enter a through-highway has stopped in compliance with section 112, Entering a through-high-way

(a) he shall yield the right-of-way to traffic that has entered the intersection upon the through highway or is approaching so closely thereon that it constitutes an immediate hazard ; and

(b) having yielded he may proceed with caution.

(2) Where a driver is entering a through highway in compliance with subsection (1), traffic approaching the intersection on the highway shall yield the right-of-way to the entering vehicle while it is proceeding into or across the highway. R.O. 1958, c. 77, s. 97.

Emerging from an alley driveway or building

101. (1) When a driver, within a business or residence district, is emerging from an alley, driveway or building he shall stop the vehicle immediately before driving onto the sidewalk or onto the sidewalk area extending across an alleyway or private driveway and he shall yield the right-of-way to a pedestrian on the sidewalk or sidewalk area.

(2) When a driver is about to enter or cross a highway from a private road, alley, building, driveway or lane, he shall yield the right-of-way to traffic approaching on the highway so closely that it constitutes an immediate hazard. R.O. 1958, c. 77, s. 98.

Duty to stop vehicle when hearing emergency signal

102. (1) Upon the immediate approach of an emergency vehicle giving an audible signal by a bell, siren or exhaust whistle, and showing a visible flashing red light, except when otherwise directed by a traffic officer, a driver shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of an intersection, and shall stop and remain in that position until the emergency vehicle has passed. R.O. 1958, c. 77, s. 99.

PEDESTRIAN'S RIGHTS AND DUTIES

Pedestrians to comply with traffic control devices

103. (1) Except when a traffic authority has otherwise ordered, where traffic control signals are operating at an intersection, pedestrians shall comply with them in the manner provided in section 67. R.O. 1958, c. 77, s. 100.

Pedestrians to have right of way

104. (1) Subject to section 105, where traffic control signals are not in place or not in operation when a pedestrian is crossing the highway within a crosswalk and the pedestrian is upon the half of the highway upon which the vehicle is travelling or is approaching so closely from the other half of the highway that he is in danger, a driver shall yield the right-of-way to the pedestrian.

(2) No pedestrian shall leave a curb or other place of safety and walk or run into the path of a vehicle that is so close that it is impracticable for the driver to yield.

(3) Where a vehicle is stopped at a marked crosswalk or at an intersection to permit a pedestrian to cross the highway, no driver approaching from the rear shall overtake and pass the stopped vehicle. R.O. 1958, c. 77, s. 101.

105. (1) When a pedestrian is crossing a highway at a point other than within a marked crosswalk or within an intersection, he shall yield the right-of-way to a driver. R.O. 1958, c. 77, s. 102. Driver to have right of way

106. (1) Notwithstanding sections 103, 104 and 105, a driver shall Driver to use due care

- (a) exercise due care to avoid colliding with a pedestrian who is upon the highway;
- (b) give warning by sounding the horn when necessary; and
- (c) observe proper precaution upon observing a child or an apparently confused or incapacitated person who is upon the highway. R.O. 1958, c. 77, s. 103.

107. (1) Where there is a sidewalk that is reasonably passable on either or both sides of a highway, a pedestrian shall not walk on a roadway. Pedestrian to walk on roadway

(2) Where there is no sidewalk, a pedestrian walking along or upon a highway shall, when practicable, walk only on the left side of the roadway or the shoulder of the highway facing traffic approaching from the opposite direction.

(3) No person shall be on a highway for the purposes of soliciting a ride from a driver. R.O. 1958, c. 77, s. 104.

BICYCLES AND PLAY VEHICLES

108. (1) Except as provided in this section, a person operating a bicycle upon a highway has the same rights and duties as a driver of a vehicle. Operator of bicycle has same rights and duties as driver of a vehicle

(2) A person who is operating a bicycle shall comply with the following provisions, namely,

- (a) he shall not ride on a sidewalk;
- (b) subject to paragraph (a), he shall ride as near as practicable to the right-hand side of the highway;
- (c) he shall not ride abreast of any other person who is operating a bicycle upon the highway;
- (d) he shall keep at least one hand on the handle bars;

- (e) he shall not ride other than upon or astride a regular seat of the bicycle;
- (f) he shall not use the bicycle to carry more persons at one time than the number for which it is designed and equipped; and
- (g) he shall not ride a bicycle on any highway where signs prohibit their use.

(3) No person who is operating a bicycle shall ride it upon a highway if there is a usable path intended for the use of bicycles adjacent to the highway.

(4) No person shall ride a bicycle, coaster, roller skates, sled or play vehicle when it is attached to a vehicle upon a highway. R.O. 1958, c. 77, s. 105.

SPECIAL STOPS

Railway crossing **109.** (1) When a driver is approaching a railway crossing at a time when

- (a) a clearly visible electrical or mechanical signal device gives warning of the approach of a railway train;
- (b) a crossing gate is lowered or a flagman is giving a signal of the approach or passage of a railway train; or
- (c) a railway train in dangerous proximity to a crossing is approaching the crossing and emits an audible signal or is visible;

he shall stop the vehicle not less than fifteen feet from the nearest rail of the railway, and shall not proceed until he can do so safely.

(2) No person shall drive a vehicle through, around or under a crossing gate or barrier at a railway crossing while the gate or barrier is closed or is being opened or closed. R.O. 1958, c. 77, s. 106.

Stop signs at railway crossing

110. (1) Where a stop has been erected at a railway crossing, a driver shall stop not less than fifteen feet from the nearest rail of the railway and shall not proceed until he can do so safely. R.O. 1958, c. 77, s. 107.

Vehicles required to stop at railway crossings

111. (1) Except as provided in subsections (3) and (4), a driver of

- (a) a vehicle carrying passengers for hire;
- (b) a school bus carrying a child; or
- (c) a vehicle carrying explosive substances or flammable liquids as cargo;

shall, before crossing a track of a railway, stop the vehicle not less than fifteen feet from the nearest rail and remaining stopped, shall listen and look in both directions along the

track for an approaching train and for signals indicating approach of a train, and shall not proceed until he can do so safely.

(2) Except as provided in subsection (4), where a driver has stopped and is proceeding as required in subsection (1), he shall cross the railway track in a gear that he will not need to change while crossing the track, and he shall not shift gears while crossing.

(3) Subsection (1) does not apply where a traffic officer or traffic control device directs traffic to proceed.

(4) Subsections (1) and (2) do not apply to industrial spur railway crossings within a business district. R.O. 1958, c. 77, s. 108.

112. (1) Except when a traffic officer directs otherwise, where there is a stop sign at an intersection, a driver of a vehicle shall stop

Stopping at intersections

- (a) when there is no crosswalk, at a clearly marked stop line;
- (b) before entering the crosswalk marked out by lines, on the near side of the intersection; or
- (c) when there is neither a marked out crosswalk nor a stop line, at the point nearest the intersecting highway from which the driver has a view of approaching traffic on the intersecting highway. R.O. 1958, c. 77, s. 109.

SCHOOL VEHICLES

113. (1) When a vehicle bearing the sign 'school bus' and displaying alternately flashing lights has stopped on a highway to receive or discharge passengers, a driver approaching the school bus from either direction shall stop before reaching the school bus.

(2) A person who is required by subsection (1) to stop before reaching a school bus shall not proceed to pass the school bus.

- (a) until the school bus resumes motion; or
- (b) until the driver of the school bus indicates by a signal that he may proceed; or
- (c) where the school bus is displaying alternately flashing lights until the lights stop flashing. R.O. 1958, c. 77, s. 110; 1968 (2nd) c. 10, s. 1.

PARKING AND LEAVING VEHICLES

114. (1) Subject to subsection (3), where outside of a business or residence district it is practicable to stop, park or leave

Vehicles to be left off roadway where possible

a vehicle off the roadway, no person shall stop, park or leave the vehicle either unattended or attended on the roadway.

(2) Subject to subsection (3), no person shall park a vehicle so as to obstruct the free passage of traffic on the highway.

(3) Subsections (1) and (2) do not apply when a vehicle is so disabled that it is not practicable to avoid stopping and temporarily leaving it on a highway. R.O. 1958, c. 77, s. 111.

Traffic officer
has right to
move vehicle

115. (1) Where a vehicle is standing or parked

- (a) in violation of section 114 ;
- (b) in a position that causes it to interfere with removal of snow from a highway by a person authorized to do so by the Commissioner or a municipality ; or
- (c) in a position that causes it to interfere with fire fighting ;

a traffic officer may move the vehicle or require the driver or person in charge of the vehicle to move it to a position determined by the traffic officer.

(2) When an unattended vehicle is

- (a) parked in violation of section 114 or 117 ;
- (b) apparently abandoned on or near a highway ; or
- (c) a motor vehicle, without proper registration plates ;

a traffic officer may take the vehicle into his custody and cause it to be taken to and stored in a safe and otherwise suitable place.

(3) All costs and charges incurred in moving and storing a vehicle under subsection (1) or (2) are a lien on the vehicle and may be recovered by the person who did the moving or storing under the provisions of the *Mechanics' Lien Ordinance* as though the costs and charges were a lien under section 31 of that Ordinance. R.O. 1958, c. 77, s. 112.

Parking restric-
tions

116. (1) Except when necessary to avoid conflict with traffic or to comply with the law or the directions of a traffic officer or traffic control device, no person shall stop, stand or park a vehicle

- (a) on a sidewalk ;
- (b) in front of a public or private driveway ;
- (c) within an intersection ;
- (d) within fifteen feet of a fire hydrant ;
- (e) on a crosswalk ;
- (f) within twenty feet of the approach side of a crosswalk ;
- (g) within thirty feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway ;

- (h) between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a traffic authority indicates a different length by signs or markings;
- (i) within one hundred feet of the nearest rail of a railway crossing;
- (j) within twenty feet of a driveway entrance to a fire station, or on the side of a street opposite the entrance to a fire station within one hundred feet of the entrance when properly marked with signs;
- (k) alongside or opposite a street excavation or obstruction when stopping, standing or parking obstructs traffic;
- (l) on the roadway side of a vehicle stopped or parked at the edge or curb of a street;
- (m) upon a bridge or other elevated structure upon a highway, or within a highway tunnel; or
- (n) in a place in contravention of a traffic control device that gives notice that stopping, standing or parking is there prohibited or restricted.

(2) No person shall move a vehicle that is not lawfully under his control into any of the places mentioned in subsection (1). R.O. 1958, c. 77, s. 113.

117. (1) Except when a traffic authority otherwise permits, a driver shall not stop, stand or park a vehicle other than on the right hand side of a highway and with the right-hand wheels parallel to that side, and where there is a curb, within eighteen inches of the curb. R.O. 1958, c. 77, s. 114.

Parking at right-hand side of road

PROHIBITIONS AND MISCELLANEOUS RULES

118. (1) No driver shall permit a motor vehicle to stand unattended or park without first having effectively set the brakes and, when standing on a grade, having turned the front wheels to the curb or side of the highway. R.O. 1958, c. 77, s. 115.

Prohibitions

119. (1) No driver shall back a vehicle unless the movement can be made with reasonable safety and without interfering with traffic. R.O. 1958, c. 77, s. 116.

Backing a vehicle

120. (1) A person who is operating a motorcycle shall ride only upon the regular seat attached to it.

Motorcycles

(2) No person, other than the operator, shall ride on a motorcycle unless

- (a) it is designed and equipped to carry more than one person; and

(b) he rides on a seat attached to the motorcycle and designed to carry a passenger.

(3) No person who is operating a motorcycle shall permit another person to ride on it in violation of subsection (2). R.O. 1958, c. 77, s. 117.

Duty not to move a vehicle when vision is obstructed

121. (1) No person shall cause a vehicle to move on a highway if

(a) the control of the driver over the driving mechanism of the vehicle; or

(b) the view of the driver to the front or sides of the vehicle;

is obstructed or interfered with by reason of the load or the number of persons in the front seat.

(2) A passenger in a vehicle shall not occupy a position in it that interferes with the driver's view ahead or with his control over the driving mechanism of the vehicle. R.O. 1958, c. 77, s. 118.

Travelling on narrow roads

122. (1) When travelling through defiles or canyons or on mountain highways, the driver of a motor vehicle shall hold the motor vehicle under control and as near the right-hand edge of the highway as reasonably possible and, upon approaching a curve where the view is obstructed within a distance of two hundred feet along the highway, shall give audible warning with the horn of the motor vehicle. R.O. 1958, c. 77, s. 119.

Down grade

123. (1) When travelling down grade a driver shall not coast with the gears of the vehicle in neutral or the clutch disengaged. R.O. 1958, c. 77, s. 120.

Following an emergency vehicle

124. (1) A driver other than that of an emergency vehicle shall not follow fire apparatus closer than five hundred feet or drive or park within five hundred feet of the place on the same street on which fire apparatus has stopped in answer to a fire alarm. R.O. 1958, c. 77, s. 121.

Driving over fire hose

125. (1) Unless he has received consent of the fire department official in command, a person shall not drive a vehicle over an unprotected hose of a fire department when laid down on a street, private driveway at a fire or an alarm of fire. R.O. 1958, c. 77, s. 122.

Throwing litter on roads

126. (1) Every person who throws or deposits or causes to be deposited any glass, nails, tacks or scraps of metal or any rubbish, refuse, waste or litter, upon, along or adjacent to a highway, except in receptacles provided for the purpose is guilty of the offence of littering the highway and is liable to

a fine of not more than five hundred dollars and in addition his operator's licence may be suspended for a period of not more than sixty days.

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

(3) A person who removes a wrecked or damaged vehicle from a highway shall remove glass or other injurious substance or thing dropped upon the highway from the vehicle. R.O. 1958, c. 77, s. 123; 1970 (1st) c. 5, s. 20.

127. (1) Except when entering or leaving a driveway or lane or when entering upon or leaving land adjacent to a highway, a driver shall not drive upon a sidewalk. R.O. 1958, c. 77, s. 124.

No driving on sidewalks

128. (1) No person shall use, interfere or tamper with any motor vehicle, or any of its accessories, or anything placed therein or thereon, without the consent of the owner. R.O. 1958, c. 77, s. 125.

Not to use, etc., without owner's consent

129. (1) No person shall operate a motor vehicle on a highway unless all of the requirements of this Ordinance with respect to equipment are complied with. R.O. 1958, c. 77, s. 126.

Vehicles shall be properly equipped

130. (1) No person shall race, drive furiously or drive on a bet or wager any animal or vehicle upon a highway. R.O. 1958, c. 77, s. 127.

No racing, etc.

131. (1) Every motor vehicle or trailer shall be loaded in such a manner that no portion of the load may become dislodged or fall from the motor vehicle or trailer during transit. R.O. 1958, c. 77, s. 128

132. (1) No driver shall refuse or fail to stop his vehicle when requested or signalled to stop by a traffic officer in uniform.

Stopping when requested by officer

(2) No person who is stopped by a traffic officer under subsection (1) shall refuse or fail to answer all reasonable inquiries made of him by the traffic officer.

(3) No person who is stopped by a traffic officer under this section shall start his vehicle until he is permitted to do so by the officer. R.O. 1958, c. 77, s. 129.

Not to start until permitted by officer

No defacing of signs

133. (1) No person shall tear down, deface, injure or otherwise molest a sign or notice erected or posted up under lawful authority for the purpose of guiding or warning persons operating vehicles, pedestrians or others on a highway. R.O. 1958. c. 77. s. 130.

Proof of proper erection and maintenance of traffic control devices

134. (1) Where it is shown that a traffic control device exists, such fact shall be *prima facie* proof that the device was erected and maintained in accordance with the provisions of this Ordinance and the regulations. 1967 (2nd) c. 12. s. 7.

No sale where serial number defaced

135. (1) Except with the permission of the Commissioner, no person shall sell or offer or expose for sale a motor vehicle or a part or accessory of a motor vehicle where the manufacturer's or maker's serial number has been removed, obliterated or defaced or is not clearly visible.

Defacing prohibited

(2) No person shall remove, obliterate or deface the manufacturer's or marker's serial number on a motor vehicle or part or accessory thereof.

Exception of tires

(3) Subsection (1) does not apply to the sale of second-hand tires. R.O. 1958. c. 77. s. 131.

136. (1) No person shall carry on business as a liveryman without a valid and subsisting liveryman's licence issued under this Ordinance. R.O. 1958. c. 77. s. 132.

PART V

RESPONSIBILITY FOR ACCIDENTS

Owner deemed to be guilty for violation of Ordinance

137. (1) Where the driver of a vehicle violates a provision of this Ordinance or the regulations or a by-law made pursuant to this Ordinance, relating to the operation, use or presence of a motor vehicle on a highway or in a public place, the owner of the vehicle is deemed to be guilty of the violation and shall incur the penalties provided therefor, unless he proves that the violation was not committed by him or by a person who had possession of vehicle with his consent either express or implied.

(2) This section does not relieve the driver of a motor vehicle of liability for a violation committed by him or while the vehicle was in his possession.

(3) If the owner of the motor vehicle is present in it at the time of the violation by another person operating the vehicle, the owner as well as the other person is liable for the violation. R.O. 1958, c. 77. s. 133; 1971 (1st) c. 29. s. 18.

138. (1) When a motor vehicle is operated in violation of a provision of this Ordinance or of the regulations or a by-law made pursuant to this Ordinance, by a person whose identity is unknown to the Commissioner, the registered owner of the vehicle on request of the Commissioner, or of an officer shall, within forty-eight hours of the request, supply the Registrar or the officer with the name and address of the person in charge of the vehicle at the time of the violation.

Owner to supply name of person

(2) A registered owner, who refuses, fails, neglects or is unable to supply the name and address of the person in charge of the vehicle within forty-eight hours after being so requested, is liable to the penalty prescribed for the offence of the driver.

(3) In a prosecution under this section it is a defence if the registered owner proves that the vehicle was being operated at the time of the violation without his knowledge or consent, either express or implied. R.O. 1958, c. 77, s. 134; 1971 (1st) c. 29, s. 19.

139. (1) The owner of a motor vehicle is liable for injury, loss or damage sustained by any person by reason of negligence in the operation of the motor vehicle on a highway unless the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur, and the driver of a motor vehicle, not being the owner, is liable to the same extent as the owner.

Owner liable for injury caused by his vehicle

(2) Subject to subsection (3), a person operating a motor vehicle, other than the owner thereof, is deemed to have possession of the vehicle with the consent of the owner until the contrary is established.

(3) Where the person operating a motor vehicle, other than the owner thereof, lives with the owner as a member of his family, he is deemed to have possession of the motor vehicle with the consent of the owner. R.O. 1958, c. 77, s. 135.

140. (1) Where injury, loss or damage is sustained by any person by reason of a motor vehicle on a highway, the onus of proof that the injury, loss or damage did not arise through the negligence or improper conduct of the owner or driver of the motor vehicle is upon the owner or driver.

Onus of proof

(2) This section does not apply in the case of a collision between motor vehicles on a highway or to an action brought by a person who is being transported in the vehicle without payment for that transportation. R.O. 1958, c. 77, s. 136.

141. (1) No action lies against the driver or owner of a motor vehicle for the death of or injury, loss or damage

Liability for gratuitous passengers

sustained or incurred by a person while a passenger in the motor vehicle without payment for the transportation or by him when entering or alighting from the motor vehicle unless the death, injury, loss or damage was caused or contributed to by gross negligence on the part of the owner or driver.

(2) This section does not relieve from liability a person transporting a passenger for hire or gain, or the owner or driver of a motor vehicle that is being demonstrated to a prospective purchaser. R.O. 1958. c. 77. s. 137.

Owner not liable where vehicle is stolen

142. (1) Notwithstanding anything in this Ordinance, no owner of a motor vehicle or the owner of any surety for the owner is liable for injury, loss or damage caused by the negligent operation of the motor vehicle if it is proved to the satisfaction of the Court that at the time the injury, loss or damage was caused the motor vehicle was operated by or under the control or in the charge of a person who had stolen the motor vehicle. R.O. 1958. c. 77. s. 138.

Limitations for civil actions

143. (1) Subject to subsection (2) no action shall be brought against a person for the recovery of damages resulting from the operation of a vehicle on a highway after the expiration of thirty-six months from the time that the cause of action arose.

Counterclaim and third party proceedings

(2) Where an action is brought within the time limited by this Ordinance for the recovery of damages resulting from the operation of a vehicle on a highway and a counterclaim is made or third party proceedings are instituted by a defendant in respect of damages resulting from the same accident, the lapse of time limited in this section is not a bar to such counterclaim or third party proceedings.

Hit and run and physical or mental incapacity

(3) The lapse of time limited in subsection (1) is not a bar to an action for the recovery of damages occasioned by a motor vehicle where the identity of the vehicle or the driver or owner thereof could not be ascertained by all reasonable efforts on the part of the person bringing the action within a reasonable time from the time that the cause of action arose, or to any action for the recovery of damages occasioned by a motor vehicle where the person bringing the action was unable to take such action in the time limited in subsection (1) for reasons of physical or mental incapacity, the proof of which shall be upon such person. 1960 (3rd) c. 3, s. 16.

Foreign vehicles

144. (1) Where a motor vehicle that is owned by a person who is not resident in the Territory is operated on a highway in the Territory by the owner or by a person who has possession of the motor vehicle with the consent of the owner or where a person who is not a resident of the Territory

operates a motor vehicle on a highway in the Territory, the Commissioner is deemed to be the agent of the owner or operator who is not so resident for the service of notice or process in an action in the Territory for injury, loss or damage arising out of the presence, use or operation of the motor vehicle in the Territory.

(2) Service of notice or process on the Commissioner as such agent may be made by leaving a copy of it with him or at his office, together with a bond in form and with sureties approved by the Commissioner in the sum of two hundred dollars conditioned that on the failure of the plaintiff to succeed in the action the defendant will be reimbursed for expenses necessarily incurred by him in defending the action in the Territory.

(3) Service effected in accordance with subsection (2) is sufficient service if notice of the service and a copy of the notice or process are sent forthwith by registered mail to the defendant and the defendant's return receipt is filed with the clerk of the court in which the action or proceeding is brought.

(4) A judge of the court in which the action is pending may, on such terms as he considers just, order such continuance as he considers necessary to afford the defendant reasonable opportunity to defend the action. R.O. 1958, c. 77, s. 139.

145. (1) Where injury, loss or damage to person or property is caused by the negligent operation on a highway of a motor vehicle that is not registered under this Ordinance, the plaintiff in any action commenced to recover for that injury, loss or damage may make the vehicle, by its registration number or by a description of the vehicle sufficient to enable it to be identified, the defendant in the action and may obtain a writ of attachment of the motor vehicle under section 146.

Writ of attachment

(2) Any person claiming to be the owner or having an interest in the motor vehicle may enter an appearance in the action and the provisions of the *Judicature Ordinance* and the rules of Court apply to him as if he had been made a party defendant.

(3) If no person claiming to be the owner or having an interest in the motor vehicle has entered an appearance in the action, the plaintiff may at any time after the expiration of thirty days from the date on which the motor vehicle was attached, upon proving damages, obtain judgment and execution against the motor vehicle. R.O. 1958, c. 77, s. 140.

Writs of attachment

146. (1) Where injury, loss or damage is incurred or sustained by a person by reason of the negligent operation of a motor vehicle upon a highway, the person incurring or sustaining the injury, loss or damage may, at or after the commencement of an action to recover damages for the injury, loss or damage, obtain from the Clerk of the Court a writ of attachment directed to the Sheriff commanding him to attach, seize, take and safely keep the motor vehicle causing the injury, loss or damage to secure the amount of damages that may be recovered in the action and the costs and to return the writ forthwith to the court out of which the writ is issued.

Writ must issue within thirty days of accident

(2) A writ of attachment shall not be obtained or issued after the expiration of thirty days from the day on which the injury, loss or damage was incurred or sustained.

(3) A person claiming to be the owner or having any interest in the motor vehicle may enter an appearance in the action and the provisions of the *Judicature Ordinance* and the rules of the Court apply to him as if he had been made a party defendant.

(4) No writ of attachment shall be issued unless the plaintiff or someone on his behalf files with the clerk an affidavit showing a cause of action, stating the time and place where the injury, loss or damage was incurred or sustained, the approximate amount of the damage and such information as will enable the motor vehicle to be identified, and files with the clerk a good and sufficient bond in favour of the Sheriff approved by the clerk conditioned for the payment of all costs and expenses incurred by the Sheriff in the seizing and holding of the motor vehicle in the event that the plaintiff does not prosecute his action or in the event the action is decided against him. R.O. 1958, c. 77, s. 141.

Sheriff to seize vehicle

147. (1) The Sheriff to whom a writ of attachment is directed shall immediately attach, seize, take and safely keep the motor vehicle to secure the amount of damages that may be recovered in the action and the costs of the action and those damages and costs constitute a first and paramount lien on the motor vehicle regardless of whether the defendant is the owner of the motor vehicle or has any interest therein. RO. 1958 c. 77, s. 142.

Financial responsibility

148. (1) In an action where a motor vehicle has been seized under a writ of attachment issued under this Ordinance, the Sheriff having the motor vehicle in his custody shall

(a) where the defendant is the registered owner of the motor vehicle and deposits with the Sheriff a certifi-

cate under the hand of the Commissioner that proof of financial responsibility had been filed by the owner under this Ordinance before the cause of action arose; or

- (b) where proof of financial responsibility had not been filed by the owner or where the defendant is not the owner of the motor vehicle but the owner or a person on his behalf files with the Sheriff a bond in favour of the plaintiff executed by two sureties satisfactory to the Sheriff or by an approved surety company and conditioned for the payment of all damages and costs that may be recovered against the defendant;

release the motor vehicle to the owner or his agent upon payment to the Sheriff of his fees and expenses in connection with the attachment. R.O. 1958, c. 77, s. 143.

149. (1) Where a motor vehicle has not been released under section 148 and judgment is recovered by the plaintiff, the Sheriff shall retain the motor vehicle under the writ of attachment until execution is issued on the judgment and, if execution is issued within fifteen days from the date of the judgment, may sell the motor vehicle in the same manner as other goods are sold under execution.

Execution on judgment

(2) The Sheriff shall pay over to the plaintiff the money so recovered for a sufficient sum to discharge the amount directed to be levied, less the Sheriff's fees, commission and poundage expenses.

(3) If, after satisfaction of the amount together with Sheriff's fees, commission and poundage expenses, a surplus remains in the hands of the Sheriff, he shall pay the surplus to the person entitled thereto.

(4) Where money is levied upon execution, the provisions of the *Creditors' Relief Ordinance* do not apply to such portion of such money as is obtained by the levying on and selling of the motor vehicle under the execution. R.O. 1958, c. 77, s. 144.

150. (1) Except as herein expressly provided, no right of any person to bring or prosecute an action for damages for injury, loss or damage to person or property is affected. R.O. 1958, c. 77, s. 145.

No right of person to bring action affected

PART VI

SAFETY RESPONSIBILITY

IMPOUNDING

Impoundment of vehicles involved in accident

151. (1) Where bodily injury to or death of any person or damage to property results from an accident in which a motor vehicle is in any manner directly or indirectly involved, any officer at the scene of the accident, or who arrives thereat while any or all of the motor vehicles so involved in the accident are still at the scene thereof, shall, subject to section 152, impound each motor vehicle so involved and require it to be taken

Where repairs needed

(a) if repairs are necessary and immediately desired by the owner, to such repair shop or garage as the owner may select, for the purpose of having it repaired, or

Where repairs not needed

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

Change of place of impoundment

(2) Where, pursuant to subsection (1), a motor vehicle has been taken to a repair shop, garage or storage place selected by the owner, an officer in a locality in which the repair shop, garage or storage place is situated, on receipt of a written application by the owner, may, at the cost of the applicant, have the motor vehicle transferred to such other repair shop, garage or storage place as the applicant may select, and may give all necessary directions to that end, and shall in that case give to the owner, operator, manager or other person in charge of the repair shop, garage or other storage place to which the motor vehicle is transferred a notice as prescribed in subsection (7).

Meaning of "owner"

(3) In subsections (1) and (2) the word "owner" includes any person, firm or corporation that has sold the motor vehicle under the terms of a conditional sale agreement or lien or note upon which all or part of the purchase price remains unpaid, or to whom or to which a bill of sale by way of chattel mortgage thereon has been given in respect of which all or part of the moneys secured thereby remain unpaid, and also includes an assignee of such vendor or mortgagee.

(4) Where any or all of the motor vehicles directly or indirectly involved in the accident are not impounded as provided in subsection (1), if the accident is reported to, or otherwise comes to the attention of an officer, he shall, subject to subsection (9) and to section 152, forthwith impound each motor vehicle so involved; and the officer impounding the motor vehicle shall require it to be disposed of as provided in subsection (1).

Impoundment after accident

(5) All costs and charges for the care or storage of a motor vehicle impounded under this section are a lien thereon in favour of the keeper of the repair shop, garage or storage place and may be recovered by him under the provisions of the *Mechanics' Lien Ordinance* as though the cost and charges were a lien under section 31 of that Ordinance.

Storage charges a lien

(6) Where a motor vehicle is impounded under this section, the officer who impounds it shall, directly or through his superior officer, if any, forthwith notify the Commissioner of such impoundment in writing on the prescribed form.

Notice of impoundment

(7) Where a motor vehicle impounded under this section is placed in a repair shop, garage or storage place, the officer impounding the same shall notify in writing, on the prescribed form, the owner, operator, manager or other person in charge of the repair shop, garage or storage place that the motor vehicle is impounded and must not be removed or permitted to be removed or released from impoundment except upon order of the Commissioner or an officer to whom reference is made in subsection (2).

Notice to garage keeper

(8) Subject to subsection (2), no person shall remove, or permit to be removed, from the place of impoundment or release from impoundment any motor vehicle impounded under this section except upon the written order of the Commissioner or a person authorized by him.

No removal from impoundment

(9) This section shall not apply to authorize or permit the impounding of a motor vehicle that is the property of Her Majesty. R.O. 1958, c. 77, s. 146; 1970 (1st) c. 5, s. 21.

No impoundment of Crown vehicle

INSURANCE CARDS

152. (1) If the driver, owner or other person in charge of a motor vehicle that is in any manner directly or indirectly involved in an accident produces to an officer seeking to impound the motor vehicle pursuant to section 151 a motor vehicle liability insurance card issued in respect of such motor vehicle and in full force at the time of such accident, the officer shall not impound the motor vehicle unless it is required to be impounded by some other provision of this or

Effect of production of motor vehicle liability insurance card

any other Ordinance, or unless it is required by the Crown as evidence in the prosecution of a criminal offence.

Release under
certain circum-
stances

(2) Where a motor vehicle has been impounded under section 151, and

- (a) the Registrar is satisfied that at the time of the accident the motor vehicle was a stolen motor vehicle;
- (b) the only damage resulting from the accident is to the person or property of the owner and of the driver; or
- (c) the driver, owner or other person in charge of the motor vehicle produces to an officer evidence that he is the holder of a motor vehicle liability insurance policy with liability coverage at least equivalent to that prescribed by section 9 in respect of the motor vehicle that is in full force

the Registrar shall order the release of the motor vehicle from impoundment unless it is required to be impounded by some other provision of this or any other Ordinance, or unless it is required by the Crown as evidence in the prosecution of a criminal offence. R.O. 1958, c. 77, s. 147; 1965 (2nd) c. 5, s. 6.

Offence

153. (1) Any person who

- (a) violates any of the provisions of subsection 151(8);
- (b) produces to an officer or to the Commissioner, as provided in section 152, evidence that he is the holder of a motor vehicle liability insurance policy with liability coverage at least equivalent of that prescribed by section 9 purporting to show that there is in force a policy of insurance that is, in fact, not in force;

is guilty of an offence and liable, if not a corporation, to a penalty not exceeding two hundred dollars and to imprisonment for a term not exceeding thirty days, and, if a corporation, a penalty not exceeding one thousand dollars. R.O. 1958, c. 77, s. 148.

Release from
impoundment in
case of residents
and in case of
non-residents

154. (1) Where the owner of a motor vehicle impounded pursuant to section 151 gives security or proof of satisfaction of claims for damages satisfactory to the Commissioner, the Commissioner shall, on application by the owner, order the release of the motor vehicle from impoundment; but if the motor vehicle is not, and is not required to be, registered under this Ordinance, the Commissioner shall order the release thereof upon the owner giving such security or such proof of satisfaction of claims for damages as the Commissioner may require.

Release from
impoundment

(2) Where a motor vehicle is impounded pursuant to section 151 and the owner fails to give the security or proof of satisfaction of claims for damages and proof of financial

responsibility, or security or proof of satisfaction of claims for damages and an undertaking as provided in subsection (1)

- (a) if six months have elapsed since the date of the accident and no certificate of *lis pendens* in a form set out in subsection (5), or otherwise to the satisfaction of the Commissioner, has been filed with the Commissioner; or If no action
- (b) if such certificate has been filed with the Commissioner and proof has been given to his satisfaction that If action taken
 - (i) the action against the owner of the motor vehicle has been decided in his favour and that no appeal against the judgment has been filed within the time fixed for the filing of such appeal,
 - (ii) that any judgment recovered against the owner has been satisfied or settled,
 - (iii) that the action has not been brought to trial within twelve months after it was begun, or
 - (iv) that although judgment has been recovered against the owner, and no appeal has been filed by him within the time fixed, or any appeal by him has been dismissed, the motor vehicle has not, within three months from the date of the judgment or the date of the dismissal of such appeal, been seized under an execution issued pursuant to the judgment;

the Commissioner shall order the release of the motor vehicle from impoundment.

(3) If judgment has been recovered in an action against the owner of a motor vehicle impounded pursuant to section 146, and the motor vehicle has been seized under an execution issued pursuant thereto, the Commissioner shall order that the motor vehicle be released to the person making the seizure. Release to execution creditors

(4) Where the Commissioner is satisfied by a certificate signed by a qualified mechanic, or by such other written or documentary evidence as he deems sufficient, that a motor vehicle impounded pursuant to section 151 is so damaged that it is impracticable to repair it so that it can be driven on a highway, he may order the release of the motor vehicle from impoundment. Release where vehicle a complete wreck

(5) The certificate of *lis pendens* shall, on request therefor and payment of the proper fee, be issued by the clerk of the court in which an action is commenced claiming compensation for damages resulting from bodily injury to or the death of any person or damage in an amount exceeding one hundred dollars to property occasioned by or arising out of the Certificate of *lis pendens*

ownership, maintenance, operation or use of a motor vehicle, and the certificate may be in the form following :

CERTIFICATE OF LIS PENDENS

Form

I hereby certify that an action has been begun in this Court, in which action is plaintiff and is defendant, and a claim is made for compensation for damages alleged to have occurred at or near , in this Territory, on the day of A.D. 19 , in which accident it is alleged that there was (were) involved

- (a) a motor vehicle alleged to be owned by (and operated at the time of the accident by), the motor vehicle licence number being ; and
(b) a motor vehicle alleged to be owned by (and operated at the time of the accident by), the motor vehicle licence number being

(NOTE: Strike out phrases in parentheses where not required or not applicable. Strike out (b) if only one motor vehicle involved. Add additional paragraphs if more than two motor vehicles involved. Give any further available description of the motor vehicles.)

Meaning of "owner"

(6) In this section, the word "owner" includes any person, firm or corporation that has sold the motor vehicle under the terms of a conditional sale agreement or lien note upon which all or part of the purchase price remains unpaid, or to whom or to which a bill of sale by way of chattel mortgage thereon has been given in respect of which all or part of the moneys secured thereby remain unpaid, and also includes an assignee of such vendor or mortgagee. R.O. 1958, c. 77, s. 149.

PART VII

ADMINISTRATION

REGULATIONS

Commissioner may make regulations

- 155. (1) The Commissioner may make regulations
(a) respecting the duties and powers of officers;
(b) respecting the persons who may issue permits and licences under this Ordinance;

- (c) respecting the form of application for permits, licences and number plates and the form of any returns or reports required under this Ordinance together with the manner and time for making the same;
- (d) respecting the requirements as to brakes, lights, reflectors and other equipment of vehicles and the inspection, testing, adjustment or repair thereof;
- (e) respecting number plates, or other identification substituted for number plates;
- (f) prescribing for and requiring the use of devices or other means to prevent accidents or thefts of motor vehicles;
- (g) prescribing the form of permits or licences issued under this Ordinance;
- (h) prescribing terms and conditions with respect to registration, use or operations of motor vehicles whether new or second-hand that are owned, kept or used by manufacturers, dealers, repairers or storers of motor vehicles or by parking lot operators or wreckers;
- (i) prescribing generally for the control of or the restriction or prohibition of the erection, display, style, size, colour, material and number of any signs, signboards, markers or notices erected by any person in the vicinity of or on any highway;
- (j) respecting
 - (i) the closing of a highway or part thereof, or
 - (ii) the restriction of traffic including the type, weight of load and speed of vehicles on a highway or part thereof,whenever and for such period of time as he deems necessary to prevent serious damage to a highway or to insure the safety of persons using the highway;
- (k) prescribing terms and conditions with respect to registration and licensing of unregistered motor vehicles entering the Territory;
- (l) with respect to the rate of speed and other conditions under which vehicles transporting explosives or other dangerous substances may be operated;
- (m) generally for carrying out the purposes and provisions of this Ordinance;
- (n) prescribing the type and specification of safety helmet, and when such regulations have been made, "safety helmet" shall mean a helmet of the type prescribed in such regulations;
- (o) providing permissible gross weights and axle loading; the weight on any tire, axle, or wheel; the number of axles or wheels; the method of determining wheelbase;

the weight on groups of axles and the weight according to wheelbase, for vehicles;

- (p) prohibiting the operation of any vehicle which in the opinion of any peace officer or officer is by reason of any mechanical, structural, or other defect unsafe for use upon highways;
- (q) providing for the granting of permits for the temporary operation on highways of vehicles for the purpose only of their transportation from one place in the Territory to another without being registered or licensed pursuant to this Ordinance;
- (r) prescribing the method of determining any fact necessary to be determined for the purpose of computing the amount payable under this Ordinance or the regulations and the person or official by whom the fact shall be determined;
- (s) providing for and compelling the weighing of vehicles and the furnishing of satisfactory evidence of their weight, and providing for the removal from any vehicle of a load or any portion of a load where it is found that the weight is in excess of that prescribed in the regulations and for redistribution of the load;
- (t) with respect to the issuance and conditions of overload and oversize permits;
- (u) prescribing the permissible width, length, height, projections, and overhangs of and from loads and vehicles;
- (v) providing for the issuance of permits for the operation of vehicles on specified highways and prescribing conditions thereof;
- (w) prescribing the fees to be established under this Ordinance; and
- (x) providing for exemption from fees under this Ordinance.

(2) The Commissioner shall cause to be tabled all regulations made by him pursuant to this Ordinance at the session of Council next following the making of such regulations. R.O. 1958, c. 77, s. 150; 1967 (2nd) c. 12, s. 8; 1971 (1st) c. 29, s. 20.

Traffic signs

156. (1) The Commissioner may mark or erect or cause to be marked or erected along any highway traffic signs or devices

- (a) prescribing rate of speed;
- (b) regulating or prohibiting parking and designating parking areas;

- (c) prescribing load limits for any vehicle or class of vehicles;
- (d) prohibiting or regulating the use of any highway by any vehicle or class of vehicles;
- (e) designating any highway as a one-way highway;
- (f) for stopping vehicles;
- (g) for regulating pedestrian traffic; and
- (h) for directing or controlling in any other manner traffic on any highway.

(2) Except as authorized by subsection (1), no person shall mark or erect any traffic sign or device along the highway.

(3) No person shall, without the authority of the Commissioner, remove or deface any traffic sign or device along such highway. R.O. 1958, c. 77, s. 151.

157. (1) The Commissioner may make regulations designating a portion or portions of a highway as an area or areas where domestic livestock may be allowed to run at large.

(2) A driver of a motor vehicle approaching domestic livestock on a road in an area designated under regulations issued pursuant to subsection (1) shall

- (a) slow down to a speed reasonable for the existing conditions or stop if necessary in order to avoid collision with domestic livestock, and
- (b) yield the right-of-way to domestic livestock, and having yielded, may proceed with caution.

APPOINTMENT OF TESTER

158. (1) The Commissioner may appoint one or more qualified persons as testers of speedometers or other speed measuring devices used on motor vehicles or elsewhere for determining the speed of motor vehicles.

Appointment of tester

(2) In any prosecution under this Ordinance, a certificate bearing date not more than thirty days prior or subsequent to the date of the offence charged in the information or complaint, signed by a tester appointed under subsection (1) and stating the result of a test of the speedometer or other speed measuring device mentioned therein, shall be received as *prima facie* evidence of the facts stated therein and of the authority of the person issuing the certificate without proof of appointment or signature. 1965, (2nd) c. 5, s. 7.

Certificate of tester

APPOINTMENT, POWERS AND DUTIES OF OFFICERS

Appointment by
Commissioner

159. (1) The Commissioner may appoint a Registrar and persons to be officers to enforce and carry out the provisions of this Ordinance.

Members of
R.C.M.P. are *ex*
officio officers

(2) Members of the Royal Canadian Mounted Police are *ex officio* officers for the purpose of enforcing and carrying out the provisions of this Ordinance. R.O. 1958, c. 77, s. 152.

Power to stop,
inspect and
order proper
equipping of
vehicles

160. (1) An officer may, at any time, stop and inspect a vehicle that is on a highway and may, if the vehicle is not equipped in accordance with the provisions of this Ordinance, require the driver or the owner to remedy the defect forthwith and to comply strictly with the equipment provisions of this Ordinance before any further use is made of the vehicle. R.O. 1958, c. 77, s. 153.

Power to seize
abandoned
motor vehicle

161. (1) Where an officer discovers an apparently abandoned motor vehicle on or near a highway, he may take the motor vehicle into his custody and may cause it to be stored in a suitable place.

Payment of
expenses of
seizure

(2) The costs of the removal, care and storage of a motor vehicle taken under subsection (1) shall be paid by the owner thereof and are a lien upon the motor vehicle.

(3) Where the owner of an abandoned motor vehicle taken pursuant to subsection (1) cannot be found or has left the Territory, the Commissioner may, after ninety days from the date the motor vehicle was taken into custody, dispose of the vehicle in such manner as he deems fit. R.O. 1958, c. 77, s. 154.

Municipal
by-laws

162. (1) Notwithstanding anything in Part IV, the council of a municipality may, by by-law, make regulations with respect to

- (a) rate of speed;
- (b) (i) establishing, acquiring, operating, controlling and regulating parking stands and places for parking vehicles or any class or classes of vehicles on any highway or other public place or on any municipal lands designated in the by-law as parking stands or places and assigning any particular stand or place to a specific person or persons,
- (ii) prescribing a tariff of fees or charges to be paid by persons using such parking stands or places, which fees or charges may vary according to the location, the classification of the vehicles for which they are intended or as the council may otherwise determine, and in its discretion granting free use of all or any parking stands or places for all vehicles or

any particular classification thereof for such period of time or during such hours as may be specified in the by-law, and

- (iii) establishing, controlling and regulating a parking meter system or providing in any other manner for the collection of fees or charges payable by persons using such parking stands or places.
- (c) obstruction of traffic;
- (d) one-way streets;
- (e) prescribing routes of travel;
- (f) pedestrian traffic;
- (g) loading zones and bus stops;
- (h) safety zones;
- (i) preventing drivers of motor vehicles from making unnecessary noise;
- (j) turning;
- (k) traffic on streets in the vicinity of public schools;
- (l) traffic at intersections;
- (m) traffic lanes;
- (n) the right-of-way of one vehicle over another or of a pedestrian over a vehicle or vice versa; and
- (o) the directions that vehicles must follow on certain streets;
- (p) prohibiting or regulating the use of any highway in the municipality by any vehicle or any class of vehicles;

within the municipality, and may impose penalties for a violation of any such by-law; and if any by-law departs from the rules laid down in Part IV and the departure is indicated to drivers by means of signs or devices for controlling traffic or by traffic officers, every driver within the municipality shall conform to the by-law. R.O. 1958, c. 77, s. 155; 1967 (2nd) c. 13, s. 1; 1970 (2nd) c. 7, s. 3.

PART VIII

ENFORCEMENT PROVISIONS

PROCEDURE

163. (1) In describing an offence under subsection 79(1), it is sufficient to charge an accused person with driving to the common danger; and the magistrate is entitled to receive evidence for the prosecution showing that acts or circumstances have constituted the offence charged; and the conviction of the magistrate is sufficient, if it sets forth that the accused person did drive to the common danger, without the

Driving to the
common danger

necessity of setting forth the specific acts or circumstances that constituted the offence. R.O. 1958, c. 77, s. 156.

Seizure of
licence plates

164. (1) Every officer may seize any licence plate if he finds it detached from a motor vehicle or trailer or displayed on a motor vehicle or trailer other than the one in respect of which it was issued.

(2) An officer may seize the licence plates in respect of a vehicle and hold them pending the receipt of instructions from the Commissioner as to their disposal

- (a) where the Commissioner has suspended or cancelled the certificate of registration; or
- (b) where the title or interest of the holder of the certificate of registration in the vehicle in respect of which the certificate of registration has been transferred. R.O. 1958, c. 77, s. 157.

Failure to
produce licence.

165. Every person who while in actual physical control of a motor vehicle fails to produce his operator's licence or fails to produce his motor vehicle liability insurance card within a reasonable time after being asked to do so by an officer is guilty of an offence and liable on summary conviction to a fine not exceeding twenty-five dollars. R.O. 1958, c. 77, s. 158; 1970 (1st) c. 5, s. 22.

Vehicles improp-
erly equipped

166. (1) Every person who operates on a highway a vehicle that is not equipped in accordance with the requirements of this Ordinance respecting equipment and every person by whose permission a vehicle is so operated is guilty of an offence and liable on summary conviction to a fine not exceeding fifty dollars. R.O. 1958, c. 77, s. 159.

Obstructing, etc.,
an officer

167. (1) Every person who obstructs, molests or interferes with an officer in the performance of his duties in respect to the enforcement and carrying out of this Ordinance is guilty of an offence and liable on summary conviction

- (a) for the first offence to a fine not exceeding one hundred dollars;
- (b) for a second offence to a fine not exceeding three hundred dollars; and
- (c) for a third or subsequent offence to a fine not exceeding five hundred dollars or to imprisonment for a term not exceeding six months or to both fine and imprisonment. R.O. 1958, c. 77, s. 160.

False statements

168. (1) Every person who knowingly makes a false statement of fact in an application, declaration, report or other document required by this Ordinance or by the Commissioner is guilty of an offence and liable on summary conviction in

addition to any other fine or punishment to which he may be liable

- (a) for the first offence to a fine not exceeding one hundred dollars; and
- (b) for a second or subsequent offence to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment. R.O. 1958. c. 77. s. 161.

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

Operation of unregistered vehicles and operation without licence

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

(2) Every person who operates a motor vehicle on a highway after the suspension or cancellation of the certificate of registration thereof or after the suspension or cancellation of his operator's licence. as the case may be, is guilty of an offence and liable on summary conviction to the penalties provided in subsection (1). R.O. 1958, c. 77. s. 162; 1970 (1st) c. 5, s. 23.

Operation after cancellation of licence

170. (1) Every person who drives a motor vehicle on a highway without due care and attention or without reasonable consideration for other persons using the highway is liable on summary conviction

- (a) for the first offence to a fine not exceeding one hundred dollars;
- (b) for a second offence to a fine not exceeding two hundred dollars; and
- (c) for a third or subsequent offence to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment. R.O. 1958, c. 77. s. 163; 1960 (3rd) c. 3. s. 17.

171. (1) Every person who violates a provision of this Ordinance or the regulations for which no other penalty is provided is guilty of an offence and liable on summary conviction

General penalty

- (a) for the first offence to a fine not exceeding one hundred dollars;
- (b) for a second offence to a fine not exceeding one hundred and fifty dollars; and
- (c) for a third or subsequent offence to a fine not exceeding two hundred dollars. R.O. 1958. c. 77, s. 164; 1965 (2nd) c. 5, s. 8.

RECORDS

Records

- 172.** (1) The Registrar shall keep the following records:
- (a) a record of all motor vehicle accidents in the Territory reported to him or concerning which he procures information;
 - (b) a record of all convictions for offences under this Ordinance or under the provisions of the *Criminal Code* relating to driving on highways reported to him pursuant to this Ordinance and of such other convictions as he may deem proper;
 - (c) a record of all drivers' licences and certificates of registration issued, suspended, revoked, cancelled or revised under this Ordinance;
 - (d) a record of all unsatisfied judgments rendered against persons holding certificates of registration or drivers' licences under this Ordinance or non-residents reported to him pursuant to this Ordinance;
 - (e) an operating record of every operator, which record shall show all reported convictions of such operator for a violation of any provision of any law relating to the operation of motor vehicles; and all reported unsatisfied judgments against such person for any injury or damage caused by such person while operating a motor vehicle and such other information as the Commissioner may deem proper, and
 - (f) such other records as in his opinion are necessary.
- (2) The Registrar may give copies or extracts of the operating record referred to in paragraph (1)(e) to any person on payment of the prescribed fee. R.O. 1958, c. 77, s. 165; 1970 (1st) c. 5, s. 24-26.

GENERAL

- 173.** (1) All fees, fines or penalties payable under this Ordinance shall be paid into the Yukon Consolidated Revenue Fund. R.O. 1958. c. 77, s. 166.

TRAFFIC TICKET PROCEDURE

174. (1) For a contravention of any of the provisions of this Ordinance, or of the regulations made hereunder, or for a contravention of a municipal by-law made under section 162, an information may be laid and a summons issued by means of a traffic ticket in accordance with this section, instead of the procedure set out in the *Criminal Code*.

(2) A traffic ticket may be composed of any one or more of the following:

- (a) Information,
- (b) Notice,
- (c) Report of Conviction,
- (d) Police record,
- (e) Summons,

and where a person on whom a traffic ticket is served appears to defend the charge, the traffic ticket may be amended in the like manner and to the like extent as an information may be amended under the *Criminal Code*.

(3) The Commissioner may make regulations

- (a) prescribing the form or forms and content of traffic tickets;
- (b) defining any word or expression used in the regulations;
- (c) authorizing, or providing for the authorization by a municipal by-law of the use on traffic tickets of any word or expression to designate an offence under this Ordinance or the regulations made hereunder or any municipal by-law made under section 162;
- (d) respecting any matter that he deems necessary for the use of traffic tickets.

(4) The use on a traffic ticket of any word or expression authorized by this Ordinance or the regulations made hereunder or any municipal by-law made under this section, or when the traffic ticket is or includes a notice of a general description of an offence, shall be deemed sufficient for all purposes to describe the offence designated by such word or expression.

(5) A peace officer shall sign the traffic ticket, and shall indicate the offence charged by marking the traffic ticket in the space provided to the left of the word or expression describing the offence charged as printed on the traffic ticket, or if the word or expression describing the offence charged is not printed on the traffic ticket, he shall write it in the space provided therefor.

(6) A traffic ticket summons may, without the swearing of an information, be delivered by a peace officer or by registered mail to the person charged with an offence therein or left by a peace officer on the motor vehicle in respect of which the offence is alleged, and delivery of the traffic ticket summons shall be deemed to be personal service of the summons upon the person.

(7) Where a notice on the traffic ticket summons or notice indicates the fine for the commission of the offence charged therein, instead of appearing before a Justice at the time and place specified in the traffic ticket summons or notice, a person to whom a traffic ticket summons or notice is delivered or on whose motor vehicle a traffic ticket summons or notice has been left may, whether or not the information has been sworn to.

(a) attend voluntarily before a Justice as directed on the summons or notice and plead guilty to the offence described therein and pay the fine specified in the notice; or

(b) cause to be delivered in accordance with a notice appearing on the summons or notice the fine specified in the notice, whereupon the person shall be deemed to have pleaded guilty to the offence with which he is charged in the summons or the offence described in the notice and to have paid the fine imposed for the commission of the offence;

but no conviction need be drawn up or entered unless required by the person convicted or for the purpose of reporting the conviction as required under this Ordinance.

(8) Where a form or forms of traffic ticket is or are prescribed for a municipality, the Magistrate may, subject to the provisions of this Ordinance, fix fines to be indicated on the form or forms of traffic ticket. 1969 (2nd) c. 8. s. 4.

SCHEDULE I

Maximum Authorized Carrying Capacity of Motor Vehicles	Minimum Insurance
Less than 8 persons	\$ 50,000.00
8 to 12 persons	65,000.00
13 to 20 persons	75,000.00
21 to 30 persons	100,000.00
31 to 40 persons	125,000.00
41 to 50 persons	150,000.00
51 to 60 persons	175,000.00
More than 60 persons	200,000.00

R.O. 1958, c. 77, Sched.; 1960 (3rd) 3, s. 18; 1968 (4th) c. 15, s. 2.

CHAPTER N-1

NEWSPAPER ORDINANCE

1. This Ordinance may be cited as the *Newspaper Ordinance*. R.O. 1958, c. 80, s. 1. Short title

2. (1) In this Ordinance Definitions

“Clerk” means the Clerk of the Court ; “Clerk”

“newspaper” means any paper sold and distributed to the public containing public news or observations on such news, published periodically at intervals not exceeding twenty-six days ; “newspaper”

“proprietor” includes any person financially interested, directly or indirectly, in a newspaper. R.O. 1958, c. 80, s. 2. “proprietor”

3. (1) Every proprietor, editor and business manager of a newspaper published in the Territory shall not later than seven days after becoming such proprietor, or business manager file with the Clerk a declaration under oath setting forth the name, place of birth and nationality of the person filing the declaration, and the place where such newspaper is published, but no proprietor, editor, editor or business manager need file a declaration if he has already filed one before the 17th day of November, 1955, under the provisions of *An Ordinance Respecting Newspapers*, chapter 67 of the Consolidated Ordinances of 1914. Declaration to be filed with Clerk

(2) Every proprietor, editor or business manager of a newspaper who neglects to file a declaration in accordance with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars for each day of such neglect. R.O. 1958, c. 80, s. 3. Offence

4. (1) A person who makes a declaration pursuant to section 3 shall pay to the Clerk the prescribed fee with the declaration, and no declaration shall be accepted by the Clerk unless such fee is paid. R.O. 1958, c. 80, s. 4; 1971 (1st) c. 20, s. 18(1). Fee

5. (1) On a declaration being filed with him pursuant to section 3 the Clerk shall forthwith send a copy thereof to the Commissioner. R.O. 1958, c. 80, s. 5. Clerk to transmit declaration to Commissioner

6. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20, s. 18(2).

CHAPTER N-2

NOISE PREVENTION ORDINANCE

1. This Ordinance may be cited as the *Noise Prevention Ordinance*. R.O. 1958, c. 81, s. 1. Short title

2. (1) No person shall, between the hours of eleven o'clock in the afternoon and seven o'clock in the forenoon, use or operate any loudspeaker, public address system or amplifier in such a manner that sound therefrom can be heard outside the premises or vehicle in or on which it is situate or affixed. R.O. 1958, c. 81, s. 2. No person to create unnecessary noise at night with loudspeaker

3. (1) No owner or occupier of premises or a vehicle where any loudspeaker, public address system or amplifier is situated or affixed shall permit any person to use or operate such loudspeaker, public address system or amplifier between the hours of eleven o'clock in the afternoon and seven o'clock in the forenoon in such a manner that sound therefrom can be heard outside such premises or vehicle. R.O. 1958, c. 81, s. 3. No owner of premises to allow noise at night with loudspeaker, etc.

4. (1) Every person who contravenes this Ordinance commits an offence and is liable on summary conviction to a penalty not exceeding one hundred dollars or to imprisonment for a term not exceeding six months, or to both fine and imprisonment. R.O. 1958, c. 81, s. 4. Offence and penalty

5. (1) Nothing in this Ordinance limits or interferes with the right of any person to bring and maintain a civil action for damage occasioned by any noise or sound from a public address system, loudspeaker or amplifier or by any nuisance arising from such noise or sound. R.O. 1958. c. 81, s. 5. Not to bar civil action

CHAPTER N-3

NOTARIES ORDINANCE

1. This Ordinance may be cited as the *Notaries Ordinance*. 1968 (4th) c. 5, s. 1. Short title
2. (1) There shall be prepared and kept in the office of the Territorial Secretary a roll to be called the "Roll of Notaries Public". 1968 (4th) c. 5, s. 2. Roll of Notaries Public
3. (1) Every person who seeks enrolment as a Notary Public shall make application in the prescribed form to the Territorial Secretary and pay the prescribed fee. Application for enrolment
- (2) No application shall be accepted unless the applicant is a Canadian citizen or other British subject and is a resident of the Territory.
- (3) Every application accepted by the Territorial Secretary shall be reported to the Court. 1968 (4th) c. 5, s. 3.
4. (1) The Court, if satisfied that the applicant is of good character, and that there is need for a Notary Public in the place where the applicant desires to practise, shall order that the applicant be examined in the duties of a Notary Public and that, if found qualified after such examination, the applicant be enrolled as a Notary Public. 1968 (4th) c. 5, s. 4. Order for and enrolment
5. (1) A judge shall from time to time appoint a person or persons to conduct the examination of applicants, and shall prescribe the subjects in which they shall be examined, and shall fix the fees to be paid to the examiners by the applicants, and, generally, may make rules in respect of examinations. 1968 (4th) c. 5, s. 5. Power of judge to provide for examinations
6. (1) Upon the applicant filing proof in the prescribed form with the Territorial Secretary that he has passed the examination, and has taken the oath of office, in the prescribed form before a judge, the Territorial Secretary shall enrol the applicant as a Notary Public and shall record upon the roll a memorandum of the area within which the Notary Public is authorized to practise. 1968 (4th) c. 5, s. 6. Enrolment after examination

Terms of office

7. (1) Every person enrolled pursuant to section 6 may hold office for a period not exceeding five years but his enrolment may be renewed on application to the Territorial Secretary and payment of the prescribed fee. 1968 (4th) c. 5, s. 7.

Power of Court to strike off the roll or suspend Notaries Public

8. (1) The Court has full power and authority upon application by the Legal Adviser or any person aggrieved, in a summary manner, to enquire into the professional conduct or any alleged incompetence, negligence, or fraud of a Notary Public, and may for cause shown order that a Notary Public be struck off the roll of Notaries Public, or be suspended from practising for a period named in the order or make such order as is just. 1968 (4th) c. 5, s. 8.

Offence and penalty

9. (1) Any person who acts as a Notary Public or holds himself out as qualified to act as a Notary Public without being qualified and authorized to do so in accordance with the provisions of this Ordinance or in any way contrary to any limitation or condition to which his enrolment or commission is subject, commits an offence, and is liable, upon summary conviction, to a fine not exceeding five hundred dollars or one year's imprisonment or to both fine and imprisonment. 1968 (4th) c. 5, s. 9.

Validity of certain acts

10. (1) No act done by a Notary Public shall be deemed invalid or ineffectual by reason only of the fact that it is done contrary to any limitation or condition to which his enrolment or commission is subject and nothing in this Ordinance relieves any person acting as a Notary Public from liability for any loss, damages or costs caused to or incurred by any other person by reason of any act done while so acting. 1968 (4th) c. 5, s. 10.

Application of preceding sections

11. (1) The preceding sections of this Ordinance, except subsections 3(1) and 3(2), do not apply to barristers and solicitors. 1968 (4th) c. 5, s. 11.

Right to use title and exercise power of Notary Public

12. (1) Every barrister and solicitor enrolled under the Legal Profession Ordinance and every Notary Public qualified under this Ordinance has and may use while so enrolled or qualified the style and title of "Notary Public in and for the Yukon Territory", and, save as in this Ordinance provided, has and may exercise while so enrolled or qualified the right and power to

(a) give notarial certificates of his acts;

- (b) attest or protest all commercial instruments brought before him for attestation or public protestation ;
- (c) administer oaths, affidavits, affirmations or statutory declarations that may or are required to be administered, sworn, affirmed, or made by the law of the Territory, or of any province, or of Canada, or of any country other than Canada ; and
- (d) perform such duties as may be authorized or prescribed by any Ordinance.

(2) No barrister and solicitor who is disbarred, disqualified or suspended from practice under any of the provisions of the *Legal Profession Ordinance* shall, so long as the disbarment, disqualification or suspension continues, act as or use the style and title of a Notary Public or have or exercise any of the powers, rights, duties, privileges or emoluments referred to above.

Disbarred, disqualified or suspended barrister and solicitor

(3) A Notary Public is entitled to receive the emoluments pertaining to the office of Notary Public prescribed by the Commissioner. 1968 (4th) c. 5, s. 12.

Emolument

13. (1) The Territorial Secretary shall upon request, and upon payment of a fee of ten dollars, issue to every person empowered to act as a Notary public by virtue of this Ordinance a commission in the prescribed form, and shall at any time, upon request of any person so commissioned who has not been struck off the roll and is not suspended from practising, and upon payment of the prescribed fee, give to that person a certificate stating that he is duly commissioned or entitled to act as a Notary Public under this Ordinance 1968 (4th) c. 5, s. 13.

Commission

14. (1) An appeal lies to the Court of Appeal from any order or decision of the Court under this Ordinance. 1968 (4th) c. 5, s. 14.

Appeal

15. (1) A judge may make rules not inconsistent with this Ordinance and prescribe forms and fix fees for all proceedings under this Ordinance not fully provided for herein, and may alter, add to, amend or repeal such rules, forms and fees as and when it may seem to him necessary or desirable. 1968 (4th) c. 5, s. 16.

Rules

16. (1) The Commissioner, if satisfied that the appointment of a Notary Public under this section is necessary in the public interest, may, by a commission, appoint any employee of the Government of the Territory or the Government of

Government employees

Canada to be a Notary Public and an appointment so made may be during pleasure or for such period as the Commissioner may think fit, and the Commissioner may define and limit the area within which a person appointed under this section may practise as a Notary Public.

17. (1) An appointment under section 16 shall confer upon the person named power only in connection with his employment, and without fee, to administer oaths, to take affidavits, declarations and acknowledgements, to attest instruments by his seal and to give notarial certificates of his acts.

(2) Every person appointed under this section shall be enrolled by the Territorial Secretary. 1968 (4th) c. 5, s. 17.

A Notary Public is *ex officio* a Commissioner for Oaths in the Territory

18. (1) A Notary Public is *ex officio* a commissioner for taking oaths or takes affidavits, affirmations or declarations within the Territory, it is not necessary to their validity that he affix his seal thereto. 1968 (4th) c. 5, s. 19.

Regulations

19. (1) The Commissioner may make regulations for carrying out the provisions of this Ordinance. 1968 (4th) c. 5, s. 20.

CHAPTER O-1

OLD AGE ASSISTANCE AND BLIND PERSONS' ALLOWANCE ORDINANCE

- 1.** This Ordinance may be cited as the *Old Age Assistance and Blind Persons' Allowance Ordinance*. R.O. 1958, c. 82, s. 1. Short title
- 2.** (1) In this Ordinance Definitions
- “allowance” means a blind person's allowance provided under this Ordinance and regulations hereto to the persons and under the conditions specified in the Federal Act; “allowance”
- “application” means an application for allowance or an application for assistance as the case may require; “application”
- “assistance” means old age assistance provided under this Ordinance and regulations hereto to the persons and under the conditions specified in the Federal Act; “assistance”
- “Director” means the Director of Old Age Assistance and Blind Persons Allowance appointed pursuant to section 5; “Director”
- “Federal Act” means “Federal Act”
- (a) with reference to assistance, the *Old Age Assistance Act* enacted by the Parliament of Canada together with any regulations made thereunder, and
- (b) with reference to allowances, the *Blind Persons Act* enacted by the Parliament of Canada together with any regulations made thereunder;
- “recipient” means a person to whom assistance has been granted or a person to whom an allowance has been granted, and includes an applicant for assistance or allowance, as the case may be. R.O. 1958, c. 82, s. 2. “recipient”
- 3.** (1) The Commissioner may, on behalf of the 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 assistance in accordance with this Ordinance and the Federal Act to persons who have attained the age of sixty-five years, and for the payment by the Government of Canada to the Territory in respect of any Agreement respecting assistance

recipient of an amount equal to not less than fifty percent of seventy-five dollars monthly or the amount of the paid out monthly for assistance, whichever is the lesser.

Agreement
respecting
allowance

(2) The Commissioner may, on behalf of the 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 in accordance with this Ordinance and the Federal Act to blind persons who have attained the age of eighteen years, and for the payment by the Government of Canada to the Territory in respect of any recipient of an amount equal to not less than seventy-five percent of seventy-five dollars monthly or of the amount paid out monthly for allowances, whichever is the lesser.

Variations and
amendments

(3) An agreement made under this Ordinance may be varied or amended from time to time by agreement between the Minister of National Health and Welfare and the Commissioner. R.O. 1958, c. 82, s. 3; 1962 (1st) c. 17, s. 1; 1964 (1st) c. 3, 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, assistance not exceeding seventy-five dollars monthly under the conditions specified in this Ordinance and the regulations and the Federal Act;
- (b) 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
- (c) the expenses incurred in the administration of this Ordinance. R.O. 1958, c. 82, s. 4; 1961 (1st) c. 2, s. 1; 1962 (1st) c. 17, s. 2; 1964 (1st) c. 3 s. 2.

Director
appointed by
Commissioner

5. (1) The Director shall be appointed by the Commissioner.

(2) The Director shall

- (a) receive applications, and
- (b) determine the eligibility of each applicant for assistance or allowance and approve the application for the grant of assistance or allowance.

(3) The Director may

- (a) call for any additional proof that may be prescribed in the regulations of 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 direction or determination, every direction or determination given or made by the Director is final and is not subject to review by any Court or otherwise. R.O. 1958, c. 82, s. 5.

6. (1) Notwithstanding any other law or Ordinance, in the case of the death of a recipient, payment of assistance or allowance for the month in which the death occurs may be made to such person as the Director may direct. R.O. 1958, c. 82, s. 6.

Payment where recipient dies

7. (1) Any assistance or 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. 82, s. 7.

Exempt from taxes and seizure

8. (1) The receipt of assistance or 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. 82, 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 assistance or allowances to or on behalf of a recipient, whether as a result of non-disclosure of fact, innocent or false representations or other cause, is a debt due to the Government of the Territory, and may be recovered at any time.

Recovery of improperly paid assistance or allowances

(2) An action or other proceeding for the recovery of a debt due to the Government of the Territory may be instituted in the name of the Commissioner. R.O. 1958, c. 82, 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 an officer, clerk or servant for anything done or omitted in the exercise or purported exercise of any duty or power under this Ordinance. R.O. 1958, c. 82, 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 schemes of assistance and allowance as he considers 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 assistance or allowance;
- (b) respecting the suspension or cancellation of assistance or allowance;
- (c) providing for the making of investigations respecting persons to whom assistance or allowance may be paid or who are in receipt of assistance or allowance or by whom or on whose behalf application has been made for assistance or 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 assistance or allowance;
- (e) respecting the method of payment of assistance or allowance; and
- (f) prescribing forms for use under this Ordinance. R.O. 1958, s. 82, s. 11.

Unqualified persons not to receive

12. (1) No person shall knowingly obtain or receive assistance or 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 assistance or allowances 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, upon 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. 82, 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. 82, s. 13.

CHAPTER O-2

OPTOMETRY ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Optometry Ordinance*. R.O. 1958, c. 83, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
- “licence” means a valid and subsisting licence issued under this Ordinance to practise optometry in the Territory; “licence”
- “optometrist” means a person who is entitled to practise optometry in the Territory under this Ordinance; “optometrist”
- “optometry” means “optometry”
- (a) the investigation of the functions of the human eye by means of test lenses, test cards, trial frames or other instruments or devices designed for the purpose of such investigation, or
- (b) the prescription or adaption of lenses, prisms or ocular exercises, or the use of orthoptic instruments of any kind for the purpose of improving or correcting the visual function, or for adapting the visual function to the requirements of a special occupation;
- “register” means the Optometrists Register referred to in section 3. R.O. 1958, c. 83, s. 2. “register”

REGISTRATION AND LICENSING

3. (1) The Territorial Secretary shall keep a register, called the Optometrists Register, and shall enter therein the names, addresses and qualifications of all persons who are, pursuant to this Ordinance, entitled to be registered and may issue licences to such persons. R.O. 1958, c. 83, s. 3. Optometrists Register

4. (1) A person who Qualifications for registration
- (a) on the 17th day of November, 1955, was entitled to practise optometry in the Territory, or
- (b) produces to the Commissioner a certificate under the hand of a proper authority showing that he is registered as an optometrist in any province of Canada,

and satisfies the Commissioner that he is the person named in the certificate,
and who pays the prescribed fee is entitled to be registered in the register.

Registration fee (2) Every person who applies for registration shall, with his application send to the Territorial Secretary the prescribed fee. R.O. 1958, c. 83, s. 4; 1971 (1st) c. 20, s. 19 (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 before the thirty-first day of March in each year, the prescribed annual licence fee. R.O. 1958, c. 83, s. 5; 1971 (1st) c. 20, s. 19 (2).

Validity of licences 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. 83, 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. 83, s. 7.

PRACTICE OF OPTOMETRY

Practice limited to holders of licences 8. (1) No person is entitled to recover a fee, reward or remuneration for professional services rendered or material or appliances provided by him in practising optometry unless he holds a licence under this Ordinance at the time the services are rendered or materials or appliances are provided. R.O. 1958, c. 83, s. 8.

Licensee's right to practise and to recover fees 9. (1) A person who holds a licence is entitled to practise optometry in the Territory 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. 83, s. 9.

Limitation of actions for malpractice 10. (1) No optometrist 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. 83, s. 10.

OFFENCES AND PENALTIES

11. (1) A person who is not the holder of a licence under this Ordinance and who, in the Territory Offences for
unlicensed
practice

- (a) publicly or privately for hire, gain or hope of reward practises optometry;
- (b) appends to his name the title of optometrist or any word indicative of such title or used in substitution or abbreviation thereof;
- (c) holds himself out in any way to be a duly qualified optometrist; or
- (d) assumes any title or description implying or designed to lead the public to believe that he is duly qualified to practise as an optometrist;

commits an offence.

(2) A person who advertises prices, charges, credit or terms of credit, in respect to eye-glasses, spectacles, lenses or optometric services commits an offence. Offences

(3) A person who commits an offence against this Ordinance is 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. R.O. 1958, c. 83, s. 11. Penalty

12. (1) In the case of an offence against this Ordinance a complaint shall be made, or the information laid, within one year from the time when the matter of the complaint or information arose. R.O. 1958, c. 83, s. 12. Time for
prosecution

13. (1) In a prosecution for an offence against 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. 83, s. 13. Onus of proof

INVESTIGATION AND REMOVAL

14. (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. Removal for
non-payment of
fees

(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 Com- Extension of
time

missioner 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 he 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. 83, s. 14.

Board of Inquiry 15. (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 an optometrist with respect to an alleged contravention of this Ordinance or any complaint of malpractice or infamous, disgraceful or improper conduct on the part of the optometrist.

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.

Frivolous and vexatious complaint (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 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.

Quorum (5) A majority of the members of the 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 immedi-

ately 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.

(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;

commits an offence. R.O. 1958, c. 83, s. 15.

16. (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.

Appeal to 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. 83, s. 16.

Powers of judge

17. (1) Where an optometrist 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 receiv-

Commissioner powers on recommendation by Board

ing the report from the Board, impose the penalty recommended by it, and

- (a) in the case of a reprimand, reprimand the optometrist in writing and note the reprimand in the register ;
- (b) in the case of a fine, make an order fining the optometrist, 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 optometrist 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 optometrist 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 manner provided by subsection (1). R.O. 1958, c. 83, s. 17.

Application for
reinstatement

18. (1) An optometrist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 17 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 16(2), apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

Order by
Commissioner or
judge

(2) The Commissioner or judge may, upon application under subsection (1), order the Territorial Secretary to reinstate the optometrist 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.

Territorial
Secretary to
reinstate

(3) The Territorial Secretary shall, upon receiving an order under subsection (2) to do so, reinstate the optometrist 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. 83, s. 18.

CHAPTER P-1

PARTNERSHIP ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Partnership Ordinance*. R.O. 1958, c. 84, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“business” includes every trade, occupation or profession ; “business”

“registration clerk” means a registration clerk under the *Bills of Sale Ordinance* ; “registration clerk”

“registration district” means a registration district under the *Bills of Sale Ordinance*. R.O. 1958, c. 84, s. 2. “registration district”

PARTNERSHIPS GENERALLY

NATURE OF PARTNERSHIP

3. (1) Partnership is the relation that subsists between persons carrying on a business in common with a view of profit. Partnership defined

(2) The relation between members of any company or association who constitute a body corporate under any law in force in the Territory is not a partnership within the meaning of this Ordinance. R.O. 1958, c. 84, s. 3.

4. (1) In determining whether a partnership does or does not exist, regard shall be had to the following rules: Rules for determining existence of partnership

- (a) joint tenancy, tenancy in common, joint property, common property or part ownership does not of itself create a partnership as to any thing so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof ;
- (b) the sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived ;
- (c) the receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a

business, does not of itself make him a partner in the business; and in particular

- (i) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;
- (ii) a contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;
- (iii) a person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;
- (iv) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits, or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, if the contract is in writing, and signed by or on behalf of all the parties thereto; and
- (v) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business it is not by reason only of such receipt a partner in the business or liable as such. R.O. 1958, c. 84, s. 4.

In case of assignment for benefit of creditors, etc., postponement of rights of lender or seller in consideration of share of profits

5. (1) Where a person to whom money has been advanced by way of loan upon a contract mentioned in section 4, or any buyer of a goodwill in consideration of a share of the profits of the business makes an assignment for the benefit of his creditors, enters into an arrangement to pay his creditors less than one hundred cents in the dollar, or dies insolvent, the lender is not entitled to recover anything in respect of his loan, and the seller of the goodwill is not entitled to recover anything in respect of the share of profits contracted for, until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied. R.O. 1958, c. 84, s. 5.

6. (1) Persons who have entered into partnership with one another are for the purposes of this Ordinance, called collectively a firm, and the name under which their business is carried on is called the firm name. R.O. 1958, c. 84, s. 6.

Meaning of "firm" and "firm name"

RELATIONS OF PARTNERS TO PERSONS DEALING WITH THEM

7. (1) Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership; and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner. R.O. 1958, c. 84, s. 7.

Power of partner to bind the firm

8. (1) An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm, by any authorized person, whether a partner or not, is binding on the firm and all the partners.

Partners bound by act on behalf of firm

(2) This section does not affect any general rule of law relating to the execution of deeds, instruments or documents affecting land or negotiable instruments. R.O. 1958, c. 84, s. 8.

9. (1) Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partner or partners; but this section does not affect any personal liability incurred by an individual partner. R.O. 1958, c. 84, s. 9.

Partner using credit of firm for private purposes

10. (1) Where it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement. R.O. 1958, c. 84, s. 10.

Effect of notice that firm will not be bound

11. (1) Every partner in a firm is liable jointly with the other partners, for all debts and obligations of the firm incurred while he is a partner; and after his death his estate is also severally liable, in the due course of administration, for such debts and obligations, so far as they remain unsatisfied but subject to the prior payment of his separate debts. R.O. 1958, c. 84, s. 11.

Liability of partner

12. (1) Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is

Liability of firm

caused to any person not being a partner in the firm, or any penalty is incurred, the firm is liable to the same extent as the partner so acting or omitting to act. R.O. 1958, c. 84, s. 12.

Misapplication
of money or
property of firm

13. (1) In the following cases, namely,

(a) where one partner acting within the scope of his apparent authority received the money or property of a third person and misapplies it, and

(b) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss. R.O. 1958, c. 84, s. 13.

Liability for
wrongs, joint
and several

14. (1) Every partner is jointly and severally liable with his co-partners for everything for which the firm becomes liable under either section 12 or 13 while he is a partner therein. R.O. 1958, c. 84, s. 14.

Improper
employment of
trust property
for partnership
purposes

15. (1) Where a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein.

(2) This section does not affect any liability incurred by any partner by reason of his having notice of a breach of trust.

(3) Nothing in this section prevents trust money from being followed and recovered from the firm if still in its possession or under its control. R.O. 1958, c. 84, s. 15.

Persons liable
for "holding
out"

16. (1) Subject to subsection (2) every one who by words spoken or written or by conduct represents himself, or who knowingly suffers himself to be represented, as a partner in a particular firm, is liable as a partner to any one who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

(2) Where after a partner's death the partnership business is continued in the old firm name, the continued use of that name or the deceased partner's name as part thereof does not itself make his executors or administrators, estate or effects liable for any partnership debts contracted after his death. R.O. 1958, c. 84, s. 16.

Admissions and
representations
of partners

17. (1) An admission or representation made by any partner concerning the partnership affairs, and in the ordinary

course of its business, is evidence against the firm. R.O. 1958, c. 84, s. 17.

18. (1) Notice to any partner who habitually acts in the partnership business, of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner. R.O. 1958, c. 84, s. 18.

Notice to acting partner to be notice to firm

19. (1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

Liability of incoming and outgoing partners

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either expressed or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted. R.O. 1958, c. 84, s. 19.

20. (1) A continuing guaranty given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guaranty was given. R.O. 1958, c. 84, s. 20.

Revocation of continuing guaranty by change in firm

RELATIONS OF PARTNERS TO ONE ANOTHER

21. (1) The mutual rights and duties of partners, whether ascertained by agreement or defined by this Ordinance, may be varied by the consent of all the partners, and such consent may be either express or inferred from a course of dealing. R.O. 1958, c. 84, s. 21.

Variation by consent of terms of partnership

22. (1) All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business are called in this Ordinance partnership property and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

Partnership property

(2) The legal estate or interest in any land that belongs to the partnership shall devolve according to the nature and tenure thereof, and the general rules of law thereto appli-

cable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

(3) Where co-owners of an estate or interest in any land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits, to be used in like manner, the land or estate so purchased belongs to them in the absence of an agreement to the contrary, not as partners, but as co-owners, for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of the purchase. R.O. 1958, c. 84, s. 22.

Property bought with partnership money

23. (1) Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on account of the firm. R.O. 1958, c. 84, s. 23.

Land held as partnership property to be treated as personal estate

24. (1) Where land or any interest therein has become partnership property, it shall, unless the contrary intention appears, be treated as between the partners, including the representatives of a deceased partner, as personal or movable and not real estate. R.O. 1958, c. 84, s. 24.

Procedure against property for a partner's separate judgment debt

25. (1) A writ of execution shall not issue against any partnership property except on a judgment against the firm.

(2) The Court may on application by summons by any judgment creditor of a partner, make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon, and may by the same or a subsequent order appoint a receiver of that partner's share of profits, whether already declared or accruing, and of any other money that may be coming to him in respect of the partnership, and direct all accounts and inquiries, and give all other orders and directions that might have been directed or given if the charge had been made in favour of the judgment creditor by the partner, or that the circumstances of the case may require.

(3) The other partner or partners are at liberty at any time to redeem the interest charged, or in case of a sale being directed, to purchase the same. R.O. 1958, c. 84, s. 25.

Rules as to interests and duties of partners subject to special agreement

26. (1) The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners by the following rules:

(a) all the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm;

- (b) the firm is bound to indemnify every partner in respect of payments made and personal liabilities incurred by him
 - (i) in the ordinary and proper conduct of the business of the firm, or
 - (ii) in or about anything necessarily done for the preservation of the business or property of the firm ;
- (c) a partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital that he has agreed to subscribe, is entitled to interest from the date of the payment or advance ;
- (d) a partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him ;
- (e) every partner may take part in the management of the partnership business ;
- (f) no partner is entitled to remuneration for acting in the partnership business ;
- (g) no person may be introduced as a partner without the consent of all existing partners ;
- (h) any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners ; and
- (i) the partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may when he thinks fit, have access to and inspect and copy any of them. R.O. 1958, c. 84, s. 26.

27. (1) No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners. R.O. 1958, c. 84, s. 27.

Expulsion of partner

28. (1) Where no fixed term has been agreed upon for the duration of the partnership or where a partnership is continued after a fixed term has expired, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners, and where the partnership has originally been constituted by deed, a notice in writing, signed by the partner giving it, is sufficient for this purpose. R.O. 1958, c. 84, s. 28.

Retirement from partnership at will

29. (1) Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term so far as is consistent with the incidents of a partnership at will.

Where partnership for term continued over, continuance on old term presumed

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership. R.O. 1958, c. 84, s. 29.

Partners to render accounts, etc.

30. (1) Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives. R.O. 1958, c. 84, s. 30.

Accountability of partners for private profits

31. (1) Every partner is bound to account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership, or from any use by him of the partnership property, name or business connection.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner, and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner. R.O. 1958, c. 84, s. 31.

Partner competing with firm to account, etc.

32. (1) Where a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he is bound to account for and pay over to the firm all profits made by him in that business. R.O. 1958, c. 84, s. 32.

Rights of assignee of share in partnership

33. (1) An assignment by any partner of his share in the partnership, either absolute or by way of mortgage, encumbrance or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee is bound to accept the account of profits agreed to by the partners.

(2) Where a partnership is dissolved, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution.

(3) In this section "assignee" includes "mortgagee" or "encumbrancee". R.O. 1958, c. 84, s. 33.

DISSOLUTION OF PARTNERSHIP, AND ITS CONSEQUENCES

34. (1) Subject to any agreement between the partners, a partnership is dissolved

Dissolution by
expiration or
notice

- (a) where it was entered into for a fixed term, by the expiration of that term,
- (b) where it was entered into for a single adventure or undertaking, by the termination of that adventure or undertaking, and
- (c) where it was entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership; and in such case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice. R.O. 1958, c. 84, s. 34.

35. (1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death of any partner, or by his assignment of his property in trust for the benefit of his creditors.

Dissolution by
death, assign-
ment in trust or
charge

(2) A partnership may, at the option of the other partners, be dissolved when any partner suffers his share of the partnership property to be charged under this Ordinance for his separate debt. R.O. 1958, c. 84, s. 35.

36. (1) A partnership is, in every case, dissolved by the happening of any event that makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership. R.O. 1958, c. 84, s. 36.

Dissolution by
illegality of
partnership

37. (1) On application by a partner the Court may decree a dissolution of the partnership in any of the following cases :

Dissolution by
the Court

- (a) when a partner is shown to the satisfaction of the Court to be of permanently unsound mind, in which case the application may be made as well on behalf of that partner by his guardian or next friend or person having title to intervene as by any other partner;
- (b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;
- (c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the Court, regard being had to the nature of the business, is calculated prejudicially to affect the carrying on of the business;
- (d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters

relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him ;

- (e) when the business of the partnership can only be carried on at a loss ; and
- (f) whenever in any case circumstances have arisen that, in the opinion of the Court, render it just and equitable that the partnership be dissolved. R.O. 1958, c. 84, s. 37.

Rights of persons dealing with firm against apparent members of firm

38. (1) Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

(2) The filing of a declaration under section 58 and the publication of the same once in each week for two consecutive weeks in the *Yukon Gazette* is notice of dissolution to persons who had no dealings with the firm before the date of filing the declaration and publication.

(3) The estate of a partner who dies or who assigns for the benefit of his creditors, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, assignment or retirement respectively. R.O. 1958, c. 84, s. 38.

Rights of partner to give notice of dissolution

39. (1) On the dissolution of a partnership or retirement of a partner any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence. R.O. 1958, c. 84, s. 39.

Continuing authority of partners for purposes of winding up

40. (1) After the dissolution of a partnership the authority of each partner to bind the firm, and the other rights and obligations of the partners, continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership, and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise. R.O. 1958, c. 84, s. 40.

Rights of partners as to application of partnership property

41. (1) On the dissolution of a partnership every partner is entitled, as against the other partners in the firm, and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm, and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm ; and for

that purpose any partner or his representatives may, on the termination of the partnership, apply to the Court to wind up the business and affairs of the firm. R.O. 1958, c. 84, s. 41.

42. (1) Where one partner has paid a premium to another on entering into a partnership for a fixed term, and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the Court may order the repayment of the premium, or of any part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless

Appointment of premium when partnership prematurely dissolved

- (a) the dissolution is, in the judgment of the Court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium. R.O. 1958, c. 84, s. 42.

43. (1) Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled

Rights when partnership dissolved for fraud or misrepresentation

- (a) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him;
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and
- (c) to be indemnified by the person guilty of the fraud or making the representation, against all the debts and liabilities of the firm. R.O. 1958, c. 84, s. 43.

44. (1) Subject to subsection (2) where any member of a firm has died or otherwise ceased to be a partner, and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlements of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled at the option of himself or his representatives to any share of the profits made since the dissolution as the Court may find to be attributable to the use of his share of the partnership assets, or to interest on the amount of his share of the partnership assets.

Rights of outgoing partner in certain cases to share profits made after dissolution

(2) Where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner, and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate as the case may be, is not entitled to any further or other share or profits; but where any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof, he is liable to account under this section. R.O. 1958, c. 84, s. 44.

Retiring or deceased partner's share to be a debt

45. (1) Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death. R.O. 1958, c. 84, s. 45.

Rules for distribution of assets on final settlement of accounts

46. (1) In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

- (a) losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits; and
- (b) the assets of the firm including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, shall be applied in the following manner and order:
 - (i) in paying the debts and liabilities of the firm to persons who are not partners therein;
 - (ii) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;
 - (iii) in paying to each partner rateably what is due from the firm to him in respect of capital; and
 - (iv) the ultimate residue, if any, shall be divided among the partners in the proportion in which profits are divisible. R.O. 1958, c. 84, s. 46.

REGISTRATION

Declaration of partnership to be filed in certain cases

47. (1) All persons associated in partnership for trading, manufacturing or mining purposes in the Territory shall cause to be filed in the office of the registration clerk of the registration district in which they carry on or intend to carry on business a declaration in writing signed by the several members of such partnership.

(2) When any of the members are absent from the place where they carry on or intend to carry on business at the time of making such declaration then the declaration shall be signed by the members present, in their own names and also for their absent co-members under their special authority to that effect; such special authority to be at the same time filed with the said registration clerk and annexed to the declaration. R.O. 1958, c. 84, s. 47.

48. (1) The declaration required to be filed under section 47 shall be in Form A of Schedule I and shall contain the names, surnames, additions and residence of each and every partner or associate and the name, style or firm under which they carry on or intend to carry on business and stating also the time during which the partnership has existed and is to exist also declaring that the persons therein named are the only members of the co-partnership or association. R.O. 1958, c. 84, s. 48.

Contents of
declaration

49. (1) The declaration required to be filed under section 47 shall be filed within two months next after the formation of any partnership and a similar declaration shall in like manner be filed when and so often as any change or alteration of partnership takes place in the membership of the partnership or in the name, style or firm under which they intend to carry on business or in the place of residence of each member of said firm and every new declaration shall state the alteration in the partnership. R.O. 1958, c. 84, s. 49.

Time for filing
declaration

50. (1) Every person engaged in business for trading, manufacturing or mining purposes and who is not associated in partnership with any other person or persons but who uses as his business style some name or designation other than his own name or who in such business uses his own name with the addition of "and company" or some other word or phrase indicating a plurality of members in the firm shall cause to be filed as provided in section 47 a declaration of the fact in writing signed by the person. R.O. 1958, c. 74, s. 50.

Individual using
trade name

51. (1) The declaration referred to in section 50 shall contain the name, surname, addition and residence of the person making the same and the name, style or firm under which he carries on or intends to carry on business and shall also state that no other person is associated with him in partnership and the same shall be filed within six months of the time when such style is first used. R.O. 1958, c. 84, s. 51.

Contents of
individual
declaration

REGISTRATION BOOKS

Registration books

52. (1) The registration clerk shall keep two alphabetical index books of all declarations of co-partnership filed in his office in pursuance of this Ordinance. R.O. 1958, c. 84, s. 52.

"Firm index book"

53. (1) In one of the books, hereinafter called the "firm index book", the registration clerk shall enter in alphabetical order the style of the respective firms in respect of which declarations have been filed in his office, and shall place opposite each entry the names of the persons composing the firm, and the date of the receipt by him of the declaration in the manner shown in Form B of Schedule I. R.O. 1958, c. 84, s. 53.

"Individual index book"

54. (1) In the second book, hereinafter called the "individual index book", the registration clerk shall enter in alphabetical order the names of the respective members of each of the firms and shall place opposite the entry the style of the firm of which the person is a member and the date of the receipt of the declaration in the manner shown in Form C of Schedule I. R.O. 1958, c. 84, s. 54.

PENALTY FOR NON-REGISTRATION

Failure to comply with Ordinance

55. (1) Every member of any partnership or other person required to register a declaration under the provisions of this Ordinance who fails to do so commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars. R.O. 1958, c. 84, s. 55.

EFFECT OF DECLARATION

Binding effect of declaration

56. (1) The allegations made in a declaration required under this Ordinance cannot be controverted by any person who has signed it nor can they be controverted as against any party not being a partner by a person who has not signed it but who was really a member of the partnership therein mentioned at the time the declaration was made. R.O. 1958, c. 84, s. 56.

Liability of person signing declaration, failure to declare does not exempt from liability

57. (1) Until a new declaration is made and filed by him or by his co-partners or any of them a person who has signed a declaration shall be deemed not to have ceased to be a partner; but nothing in this section exempts from liability any person who being a partner fails to declare the same and such person may, notwithstanding the omission, be sued jointly with the partners mentioned in the declaration or they may be sued alone and if judgment is recovered against them any other partner may be sued jointly or severally in an action on the original cause of action upon which the

judgment was rendered; and nothing in this Ordinance shall be construed to affect the rights of any partners with regard to each other except that no declaration shall be controverted by any person who signed it. R.O. 1958, c. 84, s. 57.

DECLARATION OF DISSOLUTION

58. (1) Upon the dissolution of any partnership any or all of the persons who compose the partnership may sign and file a declaration certifying the dissolution of the partnership in Form D of Schedule I. R.O. 1958, c. 84, s. 58.

Declaration of
dissolution

LIMITED PARTNERSHIPS

59. (1) Limited partnerships for the transaction of any mercantile, mechanical, manufacturing or other business within the Territory may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned. R.O. 1958, c. 84, s. 59.

Limited partner-
ships may be
formed

60. (1) Limited partnerships may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners. R.O. 1958, c. 84, s. 60.

Of whom to
consist

61. (1) General partners are jointly and severally responsible as general partners are by law, but a special partner is not liable for the debts of the partnership except in respect of the amounts contributed to the capital by him. R.O. 1958, c. 84, s. 61.

Liability of
general and
special partners

62. (1) The general partners only may transact business and sign for the partnership and bind the same. R.O. 1958, c. 84, s. 62.

General partners
only to transact
business, etc.

63. (1) The persons desirous of forming a limited partnership shall make and severally sign a certificate, which shall contain

Certificate to be
signed Contents
of

- (a) the name or firm under which the partnership is to be conducted;
- (b) the general nature of the business intended to be transacted;
- (c) the names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual place of residence;
- (d) the amount of capital that each special partner has contributed; and

(e) the period at which the partnership is to commence and the period at which it is to terminate. R.O. 1958, c. 84, s. 63.

Form of **64.** (1) The certificate shall be in Form E of Schedule I and shall be signed by the several persons forming the partnership before a notary public, who shall duly certify the same. R.O. 1958, c. 84, s. 64.

Where to be filed **65.** (1) The certificate so signed and certified shall be filed in the office of the registration clerk of the registration district in which the principal place of business is or is to be situate, and the certificate shall be recorded by the clerk at full length in a book to be kept for that purpose and open to public inspection. R.O. 1958, c. 84, s. 65.

Partnerships not formed until certificate filed **66.** (1) A limited partnership is deemed not to have been formed until a certificate has been made, certified, filed and recorded as provided in this Ordinance; and where any false statement is made in a certificate, all the persons interested in the partnership are liable for all the engagements thereof as general partners. R.O. 1958, c. 84, s. 66.

Certificates of continuance **67.** (1) Every renewal or continuance of a limited partnership beyond the time originally fixed for its duration shall be certified, filed and recorded in the manner required by this Ordinance for its original formation; and every such partnership otherwise renewed or continued is deemed a general partnership. R.O. 1958, c. 84, s. 67.

Dissolution, etc. **68.** (1) Every alteration made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall be deemed a dissolution of the partnership, and every such partnership in any manner carried on after the alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership. R.O. 1958, c. 84, s. 68.

Firm name **69.** (1) The business of a limited partnership shall be conducted under a firm name in which the names of the general partners or some one of them only shall be used; and where the name of a special partner is used in such firm name with his privity he is deemed a general partner. R.O. 1958, c. 84, s. 69.

Liability of general partners to actions **70.** (1) Actions in relation to the business of a limited partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner. R.O. 1958, c. 84, s. 70.

71. (1) No part of the sum that a special partner has contributed to the capital shall be withdrawn by him or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of the interest does not reduce the original amount of the capital; and if after the payment of the interest any profits remain to be divided, he may also receive his portion of the profits. R.O. 1958, c. 84, s. 71.

Restrictions upon stock of special partners

72. (1) Where it appears that by the payment of interest or profits to a special partner the original capital has been reduced, the partner receiving the same is bound to restore the amount necessary to make good his share of the deficient capital, with interest. R.O. 1958, c. 84, s. 72.

When special partner liable to refund

73. (1) A special partner may from time to time examine the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions, he is deemed a general partner. R.O. 1958, c. 84, s. 73.

Privileges of special partners

74. (1) The general partners are liable to account to each other and to the special partners for their management of the concern in like manner as other partners. R.O. 1958, c. 84, s. 74.

General partners liable to account

75. (1) In case of the insolvency of a limited partnership, no special partner shall under any circumstances be allowed to claim as creditor until the claims of all the other creditors of the partnership have been satisfied. R.O. 1958, c. 84, s. 75.

Creditors preferred to special partners

76. (1) No dissolution of a limited partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or the certificate of its renewal until a notice of such dissolution has been filed in the office in which the original certificate was recorded and has been published once in each week for two consecutive weeks in the *Yukon Gazette*. R.O. 1958, c. 84, s. 76.

No premature dissolution without notice, etc.

77. (1) Sections 2 to 46 are subject to the special provisions of this Ordinance regarding limited partnerships. R.O. 1958, c. 84, s. 77.

Limited partnerships, ss. 2-46 subject to special provisions

SUPPLEMENTAL

78. (1) The rules of equity and of common law applicable to partnership continue in force except so far as they are

Saving for rules of equity and common law

inconsistent with the express provisions of this Ordinance.
R.O. 1958, c. 84, s. 78.

REGISTRATION FEES

Fees

79. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. R.O. 1958, c. 84, s. 79; 1971 (1st) c. 20, s. 20.

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

Partnership

FORM B

FIRM INDEX BOOK

Style of firm	Names of persons composing the firm and their residences	Date of filing declaration
John Smith & Co.	John Smith, Dawson Edward Ives, Dawson	15 Sept., 1947
James Abbott & Son	James Abbott, Whitehorse George Abbott, Whitehorse	10 Sept., 1947
Bernard & Johnson	Arthur Bernard, Dawson Alexander Johnson, Whitehorse	1 March, 1947

R.O. 1958, c. 84, Form B.

FORM C

INDIVIDUAL INDEX BOOK

Name of individual and residence	Style of firm of which a member	Date of filing declaration
Abbott, James, Whitehorse	James Abbott & Son	10 Sept., 1947
Abbott, George, Whitehorse	James Abbott & Son	10 Sept., 1947
Bernard, Arthur, Dawson	Bernard & Johnson	1 March, 1947
Johnson, Alex., Whitehorse	Bernard & Johnson	1 March, 1947

R.O. 1958, c. 84, Form C.

FORM D

DECLARATION OF DISSOLUTION OF PARTNERSHIP

YUKON TERRITORY }
I,

formerly a member of the firm of
carrying on business as at
in the of
under the style of do hereby certify that
the said partnership was on the day of
dissolved.

Witness my hand at the day of
one thousand
A.B.

R.O. 1958, c. 84, Form D.

FORM E

CERTIFICATE OF LIMITED PARTNERSHIP

We, the undersigned, do hereby certify that we have entered
into co-partnership under the style or firm of (B.D., & Co.) as
(Grocers and Commission Merchants), which firm consists
of (A.B.) residing usually at , and (C.D.)
residing usually at , as general partners; and
(E.F.) residing usually at , and (G.H.) residing
usually at , as special partners, the said (E.F.)
having contributed \$, and the said (G.H.) \$,
to the capital.

The said partnership commenced on the day of
19 , and terminates on the day
of 19 .
Dated this day of A.D. 19 ,

(Signed) A.B.
C.D.
E.F.
G.H.

Signed in the presence of me,
L.M.

Notary Public

R.O. 1958, c. 84, Form E.

CHAPTER P-2

PAWNBROKERS AND SECOND-HAND DEALERS
ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Pawnbrokers and Second-Hand Dealers Ordinance*. R.O. 1958, c. 85, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance, "pawnbroker" means any person who takes or receives by way of pawn, pledge or exchange, any goods for the repayment of money lent thereon. "pawnbroker" defined

PAWNBROKERS

3. (1) No person shall carry on the business of a pawnbroker within the Territory unless he is the holder of a valid and subsisting licence issued by the Commissioner, and has paid the prescribed fee. Licence required

(2) A licence issued by the Commissioner pursuant to subsection (1) is valid until the thirty-first day of March next following the date of issue, but may be renewed from year to year upon payment of the prescribed fee. R.O. 1958, c. 85, s. 3; 1971 (1st) c. 20, s. 21(1)-(3). Duration of licence

4. (1) Every pawnbroker shall keep posted in a conspicuous place in his shop or place of business a printed or clearly and legibly written schedule of rates authorized by law to be made by such pawnbroker. Schedule to be posted

(2) Every pawnbroker shall keep and maintain a sign over the entrance to his shop or place of business, on which shall be painted his name in large and legible letters and underneath his name the words "Loan Office". R.O. 1958, c. 85, s. 4. Sign

5. (1) Every pawnbroker shall keep a record book in which he shall enter at the time of each loan Record

- (a) a description of the goods pawned ;
- (b) the amount loaned thereon ; and
- (c) the name and residence of the pawner.

- Duplicate of entry** (2) The pawnbroker shall give a duplicate of the entry made in the record book referred to in subsection (1) to the pawner and such duplicate shall be used to redeem the pawn from the pawnbroker.
- Inspection** (3) The record book shall at all reasonable times within business hours be open to the inspection of a peace officer. R.O. 1958, c. 85, s. 5.
- Sale at public auction** **6.** (1) Pawned goods not redeemed within one year from the date of deposit may be sold at public auction by the pawnbroker.
- (2) Where any goods are being sold under this section, the pawnbroker shall, at least ten days before such sale, place a notice stating the time and place of such sale in a newspaper published or circulated in the area where the sale is to take place, or post such notice in at least two public places in the area.
- Deduction from proceeds** (3) The pawnbroker may deduct from the proceeds of the sale of any goods under this section the amount of the loan made on such goods together with accrued interest thereon as well as the costs of the sale, and where any money remains after making such deductions the money shall, upon demand by the person by whom the goods were deposited, be paid to that person in case the demand is made within three years after the sale.
- (4) Every pawnbroker shall enter in a book kept by him for that purpose an account of the sale of such goods showing
- (a) the time and place of the sale ;
 - (b) the name of the pawner ;
 - (c) the name of the auctioneer ;
 - (d) the proceeds of the sale ; and
 - (e) the expenses of the sale ;
- and the book may be examined by the pawner or his personal representative at any reasonable time. R.O. 1958, c. 85, s. 6.
- Redemption within one year** **7.** (1) Goods pawned may be redeemed at any time within one year from the pawning thereof and the pawnbroker shall return the pledge upon payment of principal and interest due thereon. R.O. 1958, c. 85, s. 7.
- Holder deemed owner** **8.** (1) The holder of the duplicate entry shall be deemed the owner of the goods pawned, and the pawnbroker shall not be held liable if he delivers the goods to such holder unless he

knows that the person presenting the duplicate has obtained the same fraudulently or illegally, or has found it. R.O. 1958, c. 85, s. 8.

9. (1) If the duplicate entry has been lost and is no longer in the possession of the pawner, the pawner may obtain the goods from the pawnbroker if he presents an affidavit sworn before a commissioner or other person qualified to take oaths stating that the duplicate entry has been lost and that he is still entitled to redeem such goods. R.O. 1958, c. 85, s. 9. Where entry lost

10. (1) No pawnbroker shall take goods in pledge from a person who is under eighteen years of age knowing him to be so, or from a person apparently under the influence of alcohol. R.O. 1958, c. 85, s. 10. Prohibition

SECOND-HAND DEALERS

11. (1) No person shall carry on the business of second-hand dealer within the Territory unless he is the holder of a valid and subsisting licence issued by the Commissioner, and has paid the prescribed fee. Licence required

(2) A licence issued by the Commissioner pursuant to subsection (1) is valid until the thirty-first day of March next following the date of issue, but may be renewed from a year to year upon payment of the prescribed fee. R.O. 1958, c. 85, s. 11; 1971 (1st) c. 20, s. 21 (4)-(6). Duration of licence

12. (1) Every second-hand dealer shall keep a record of all purchases and sales, together with a brief description of the goods and the price paid or received for them. Record of purchases, sales, etc.

(2) The record may be kept either in book form or by retention of counter slips, but if counter slips are used they shall be retained on file for a period of not less than six months. Form of record

(3) The record shall at all reasonable times within business hours be open to the inspection of any peace officer. R.O. 1958, c. 85, s. 12. Inspection

GENERAL

13. (1) Every person who violates any of the provisions of this Ordinance commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars. R.O. 1958, c. 85, s. 13. Offence and penalty

14. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st) c. 20, s. 21(7).

CHAPTER P-3

PERPETUITIES ORDINANCE

- 1. This Ordinance may be cited as the *Perpetuities Ordinance*. 1968 (2nd) c. 2, s. 1. Short title
- 2. (1) In this Ordinance, Interpretation
 "court" means the Magistrate's Court or the Territorial Court; "court"
 "in being" means living or *en ventre sa mere*; "in being"
 "limitation" includes any provision whereby property or any interest in property, is disposed of, created or conferred. 1968 (2nd) c. 2, s. 2. "limitation"
- 3. (1) The rule of law known as the rule against perpetuities continues to have full effect except as provided in this Ordinance. 1968 (2nd) c. 2, s. 3. Rule against perpetuities to continue saving
- 4. (1) No limitation creating a contingent interest in real or personal property shall be treated as or declared to be invalid as violating the rule against perpetuities by reason only of the fact that there is a possibility of such interest vesting beyond the perpetuity period. 1968 (2nd) c. 2, s. 4. Possibility of vesting beyond period
- 5. (1) Every contingent interest in real or personal property that is capable of vesting within or beyond the perpetuity period is presumptively valid until actual events establish, Presumption of validity and "Wait and See" doctrine
 (a) that the interest is incapable of vesting within the perpetuity period, in which case the interest, unless validated by the application of sections 9 or 10, shall be treated as void or declared to be void; or
 (b) that the interest is incapable of vesting beyond the perpetuity period, in which case the interest shall be treated as valid or declared to be valid.

(2) A limitation conferring a general power of appointment, which but for this section would have been void on the ground that it might become exercisable beyond the perpetuity period, is presumptively valid until such time, if any, as it becomes established by actual events that the power cannot be exercised within the perpetuity period. General power of appointment

Special power of appointment, etc.

(3) A limitation conferring any power, option or other right, other than a general power of appointment, which but for this section would have been void on the ground that it might be exercised beyond the perpetuity period, is presumptively valid, and shall be declared or treated as void for remoteness only if, and so far as, the right is not fully exercised within the perpetuity period. 1968 (2nd) c. 2, s. 5.

Application to determine validity

6. (1) An executor or a trustee of any property or any person interested under, or on the validity or invalidity of, an interest in such property may at any time apply to the court for a declaration as to the validity or invalidity with respect to the rule against perpetuities of an interest in that property, and the court may on such application make an order as to the validity or invalidity of an interest based on the facts existing and the events that have occurred at the time of the application and having regard to sections 9 and 10.

Interim income

(2) Pending the treatment or declaration of a presumptively valid interest within the meaning of subsection (5)(1) as valid or invalid, the income arising from such interest and not otherwise disposed of shall be treated as income arising from a valid contingent interest, and any uncertainty whether the limitation will ultimately prove to be void for remoteness shall be disregarded. 1968 (2nd) c. 2, s. 6.

Measurement of perpetuity period

7. (1) Except as provided in section 10, subsection 14(3) and subsections 16(2) and 16(3), the perpetuity period shall be measured in the same way as if this Ordinance had not been passed, but, in measuring that period by including a life in being when the interest was created, no life shall be included other than that of any person whose life, at the time the interest was created, limits or is a relevant factor that limits in some way the period within which the conditions for vesting of the interest may occur.

Idem

(2) A life that is a relevant factor in limiting the time for vesting of any part of a gift to a class shall be a relevant life in relation to the entire class.

Idem

(3) Where there is no life satisfying the conditions of subsection (1), the perpetuity period is twenty-one years. 1968 (2nd) c. 2, s. 7.

8. (1) Where, in any proceeding respecting the rule against perpetuities, a question arises that turns on the ability of a person to have a child at some future time, then,

(a) it shall be presumed :

- (i) that a male is able to have a child at the age of fourteen years or over, but not under that age, and
 - (ii) that a female is able to have a child at the age of twelve years or over, but not under that age or over the age of fifty-five years, but,
- (b) in the case of a living person, evidence may be given to show that he or she will or will not be able to have a child at the time in question.

(2) Subject to subsection (3), where any question is decided in relation to a limitation of interest by treating a person as able or unable to have a child at a particular time, then he or she shall be so treated for the purpose of any question that arises concerning the rule against perpetuities in relation to the same limitation or interest notwithstanding that the evidence on which the finding of ability or inability to have a child at a particular time as proved by subsequent events to have been erroneous. Idem

(3) Where a question is decided by treating a person as unable to have a child at a particular time and such person subsequently has a child or children at that time, the court may make such order as it sees fit to protect the right that such child or children would have had in the property concerned as if such question had not been decided and as if such child or children would, apart from such decision, have been entitled to a right in the property not in itself invalid by the application of the rule against perpetuities as modified by this Ordinance. Idem

(4) The possibility that a person may at any time have a child by adoption, legitimation or by means other than procreating or giving birth to a child shall not be considered in deciding any question that turns on the ability of a person to have a child at some particular time, but, if a person does subsequently have a child or children by such means, then subsection (3) applies to such child or children. 1968 (2nd) c. 2, s. 8. Idem

9. (1) Where a limitation creates an interest in real or personal property by reference to the attainment by any person or persons of a specified age exceeding twenty-one years, and actual events existing at the time the interest was created or at any subsequent time established, Reduction of age

- (a) that the interest would, but for this section, be void as incapable of vesting within the perpetuity period; but
- (b) that it would not be void if the specified age had been twenty-one years,

the limitation shall be read as if, instead of referring to the age specified, it had referred to the age nearest the age specified that would, if specified instead, have prevented the interest from being so void.

Exclusion of
class members to
avoid remoteness

(2) Where the inclusion of any persons, being potential members of a class or unborn persons who at birth would become members or potential members of the class, prevents subsection (1) from operating to save a limitation creating an interest in favour of a class of person from being void for remoteness, such persons shall be excluded from the class for all purposes of the limitation, and the limitation takes effect accordingly.

Idem

(3) Where a limitation creates an interest in favour of a class to which subsection (2) does not apply and actual events at the time of the creation of the interest or at any subsequent time establish that, but for this subsection, the inclusion of any persons, being potential members of a class or unborn persons who at birth would become members or potential members of the class, would cause the limitation to the class to be void for remoteness, such persons shall be excluded from the class for all purposes of the limitation, and the limitation takes effect accordingly.

Interpretation

(4) For the purposes of this section, a person shall be treated as a member of a class if in his case all conditions identifying a member of the class are satisfied, and a person shall be treated as a potential member if in his case some only of those conditions are satisfied but there is a possibility that the remainder will in time be satisfied. 1968 (2nd) c. 2, s. 9.

Spouses

10. (1) Where any disposition is made in favour of any spouse of a person in being at the commencement of the perpetuity period, or where a limitation creates an interest in real or personal property by reference to the time of the death of the survivor of a person in being at the commencement of the perpetuity period and any spouse of that person, for the purpose of validating any such disposition or limitation, that but for this section would be void as offending the rule against perpetuities as modified by this Ordinance, the spouse of such person shall be deemed to be a life in being at the commencement of the perpetuity period even though such spouse was not born until after that time. 1968 (2nd) c. 2, s. 10.

Saving

11. (1) A limitation that, if it stood alone, would be valid under the rule against perpetuities is not invalidated by

reason only that it is preceded by one or more limitations that are invalid under the rule against perpetuities, whether or not such limitation expressly or by implication takes effect after, or is subject to, or is ulterior to and dependent upon, any such invalid limitation.

(2) Where a limitation is invalid under the rule against perpetuities, any subsequent interest that, if it stood alone would be valid, shall not be prevented from being accelerated by reason only of the invalidity of the prior interest. 1968 (2nd) c. 2, s. 11.

Acceleration of expectant interests

12. (1) For the purpose of the rule against perpetuities, a power of appointment shall be treated as a special power unless

Powers of appointment

- (a) in the instrument creating the power it is expressed to be exercisable by one person only; and
- (b) it could, at all times during its currency when that person is of full age and capacity, be exercised by him so as immediately to transfer to himself the whole of the interest governed by the power without the consent of any other person or compliance with any other condition, not being a formal condition relating only to the mode of exercise of the power.

(2) A power that satisfies the conditions of paragraphs (1) (a) and (1) (b) shall, for the purpose of the rule against perpetuities, be treated as a general power.

(3) For the purpose of determining whether an appointment made under a power of appointment exercisable by will only is void for remoteness, the power shall be treated as a general power where it would have been so treated if exercisable by deed. 1968, (2nd) c. 2, s. 12.

13. (1) The rule against perpetuities does not invalidate a power conferred on trustees or other persons to sell, lease, exchange or otherwise dispose of any property, or to do any other act, in the administration (as opposed to the distribution) of any property including, where authorized, payment to trustees or other persons of reasonable remuneration for their services.

Administrative powers of trustees

(2) Subsection (1) applies for the purposes of enabling a power to be exercised at any time after this Ordinance comes into force, notwithstanding that the power is conferred by an instrument that took effect before that time. 1968 (2nd) c. 2, s. 13.

Application of subsection (1)

Options to acquire reversionary interests

14. (1) The rule against perpetuities does not apply to an option to acquire for valuable consideration an interest reversionary on the term of a lease,

- (a) if the option is exercisable only by the lessee or his successors in title; and
- (b) if it ceases to be exercisable at or before the expiration of one year following the determination of the lease.

Application of subsection (1)

(2) Subsection (1) applies to an agreement for a lease as it applies to a lease, and "lessee" shall be construed accordingly.

Other options

(3) In the case of all other options to acquire for valuable consideration any interest in land, the perpetuity period under the rule against perpetuities is twenty-one years, and any such option that according to its terms is exercisable at a date more than twenty-one years from the date of its creation is void on the expiry of twenty-one years from the date of its creation as between the person by whom it was made and the person to whom or in whose favour it was made and all persons claiming through either or both of them, and no remedy lies for giving effect to it or making restitution for its lack of effect.

Options to renew leases

(4) The rule against perpetuities does not apply, nor do the provisions of subsection (3) of this section apply, to options to renew a lease. 1968 (2nd) c. 2, s. 14.

Easements. •*profits à prendre*, etc.

15. (1) In the case of an easement, *profit à prendre* or other similar interest to which the rule against perpetuities may be applicable, the perpetuity period is forty years from the time of the creation of such easement, *profit à prendre* or other similar interest, and the validity or invalidity of such easement, *profit à prendre* or other similar interest, so far as remoteness is concerned, shall be determined by actual events within such forty-year period; and the easement, *profit à prendre* or other similar interest is void only for remoteness if, and to the extent that, it fails to acquire the characteristics of a present exercisable right in the servient land within the forty-year period. 1968 (2nd) c. 2, s. 15.

Determinable interests

16. (1) In the case of,

- (a) a possibility of reverter on the determination of a determinable fee simple; or
- (b) a possibility of a resulting trust on the determination of any determinable interest in real or personal property;

the rule against perpetuities as modified by this Ordinance applies in relation to the provision causing the interest to be determinable as it would apply if that provision were expressed in the form of a condition subsequent giving rise on its breach to right of re-entry or an equivalent right in the case of personal property and, where the event determines the determinable interest does not occur within the perpetuity period, the provision shall be treated as void for remoteness and the determinable interest becomes an absolute interest.

(2) In the case of a possibility of reverter on the determination of a determinable fee simple, or in the case of a possibility of a resulting trust on the determination of any determinable interest in any real or personal property, or in the case of a right of re-entry following on a condition subsequent, or in the case of an equivalent right in personal property, the perpetuity period shall be measured as if the event determining the prior interest were a condition to the vesting of the subsequent interest, and failing any life in being at the time the interests were created that limits or is a relevant factor that limits in some way the period within which that event may take place, the perpetuity period is twenty-one years from the time when the interests were created. Idem

(3) Even though some life or lives in being may be relevant in determining the perpetuity period under subsection (2), the perpetuity period for the purposes of this section shall not exceed a period of forty years from the time when the interests were created and shall be the lesser of a period of forty years and a period composed of the relevant life or lives in being and twenty-one years. 1968 (2nd) c. 2, s. 16. Idem

17. (1) A trust for a specific non-charitable purpose that creates no enforceable equitable interest in a specific person shall be construed as a power to appoint the income or the capital, as the case may be, and, unless the trust is created for an illegal purpose or a purpose contrary to public policy, the trust is valid so long as, and to the extent that, it is exercised either by the original trustee or his successor, within a period of twenty-one years, notwithstanding that the limitation creating the trust manifested an intention, either expressly or by implication, that the trust should or might continue for a period in excess of that period; but in the case of such a trust that is expressed to be of perpetual duration, the court may declare the limitation to be void if the court is of opinion that by so doing the result would more closely approximate the intention of the creator of the trust than the period of validity provided by this section. Specific non-charitable trusts

Idem

(2) To the extent that the income or capital of a trust for a specific non-charitable purpose is not fully expended within a period of twenty-one years, or within any annual or other recurring period within which the limitation creating the trust provided for the expenditure of all or a specified portion of the income or the capital, the person or persons, or his or their successors, who would have been entitled to the property comprised in the trust if the trust had been valid from the time of its creation, are entitled to such unexpended income or capital. 1968. (2nd) c. 2, s. 17.

Rule in *Whitby vs. Mitchell* abolished

18. (1) The rule of law prohibiting the limitation, after a life interest to an unborn person, of an interest in land to the unborn child or other issue of an unborn person is hereby abolished, but without affecting any other rule relating to perpetuities. 1968 (2nd) c. 2, s. 18.

Rules as to perpetuities not applicable to employee benefit trusts

19. (1) The rules of law and statutory enactments relating to perpetuities do not apply and shall be deemed never to have applied to the trusts of a plan, trust or fund established for the purpose of providing pensions, retirement allowances, annuities, or sickness, death or other benefits, to employees or to their widows, dependents or other beneficiaries. 1968 (2nd) c. 2, s. 19.

Application of Ordinance

20. (1) Except as provided in subsection 13(2) and in section 19, this Ordinance applies only to instruments that take effect after this Ordinance comes into force, and such instruments include an instrument made in the exercise of a general or special power of appointment after this Ordinance comes into force even though the instrument creating the power took effect before this Ordinance comes into force. 1968 (2nd) c. 2, s. 20.

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

CHAPTER P-4

PHARMACEUTICAL CHEMISTS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Pharmaceutical Chemists Ordinance*. R.O. 1958, c. 87, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance

Definitions

“dentist” means a dentist under the *Dental Profession Ordinance*; “dentist”

“drug” includes any substance or mixture of substances manufactured, sold or represented for use in “drug”

(a) the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state or the symptoms thereof, or

(b) restoring, correcting or modifying organic functions in man or animal;

“licence” means a valid licence issued under this Ordinance; “licence”

“medical practitioner” means a medical practitioner under the *Medical Profession Ordinance*; “medical practitioner”

“narcotic” means a drug at any time listed or described in the Schedule to the *Opium and Narcotic Drug Act*; “narcotic”

“pharmaceutical chemist” means a person who is entitled to practise the profession of pharmaceutical chemist under this Ordinance; “pharmaceutical chemist”

“register” means the Pharmaceutical Chemists Register referred to in section 3; and “register”

“veterinary surgeon” means a person who “veterinary surgeon”

(a) is registered as a veterinary surgeon under the law of any province of Canada, or

(b) is a veterinary inspector appointed under the *Animal Contagious Diseases Act*. R.O. 1958, c. 87, s. 2.

REGISTRATION AND LICENSING

3. (1) The Territorial Secretary shall keep a register called the Pharmaceutical Chemists Register, and shall enter there- Pharmaceutical Chemists Register

in 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. 87, s. 3.

Registration of
previously
qualified persons

4. (1) A person who on the 2nd day of April, 1955, was entitled by law to practise the profession of pharmaceutical chemist in the Territory is entitled to be registered in the register.

Qualifications
for registration

(2) A person who

(a) has the right to practise the profession of pharmaceutical chemist in any province of Canada, or

(b) is a medical practitioner, and who pays to the Territorial Secretary the prescribed fee is entitled to be registered in the register. R.O. 1958, c. 87, s. 4; 1971 (1st) c. 20, s. 22(1).

Licence fee

5. (1) Every person who is registered in the register shall pay 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. 87, s. 5; 1971 (1st) c. 20, s. 22(2).

Expiration of
licence

6. (1) A licence expires on the 31st day of March next following the day upon which it came into force. R.O. 1958, c. 87, s. 6.

PRACTICE OF PHARMACEUTICAL CHEMISTRY

Practice limited
to holders of
licences

7. (1) No person is entitled to practise the profession of pharmaceutical chemist nor to recover a fee, reward or remuneration for medicines, materials or appliances provided by him in practising the profession of pharmaceutical chemist unless he holds a licence under this Ordinance at the time the medicines, materials or appliances are provided. R.O. 1958, c. 87, s. 6.

Licensee's right
to practise and
to recover fees

8. (1) A person who holds a licence is entitled to practise the profession of pharmaceutical chemist in the Territory and to bring action before a judge for the recovery of reasonable charges for any medicines, materials or appliances supplied by him. R.O. 1958, c. 87, s. 8.

Limitation of
actions for
malpractice

9. (1) No pharmaceutical chemist is liable to an action for negligence or malpractice unless the action is commenced within one year from the day when, in the matter com-

plained of, the professional services terminated. R.O. 1958, c. 87, s. 9.

10. (1) No pharmaceutical chemist shall supply any drug listed or described in Schedule I or any preparation thereof except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon. R.O. 1958, c. 87, s. 10. Schedule I drugs

11. (1) Subject to subsection (2), no pharmaceutical chemist shall supply a drug listed or described in Schedule II or any preparation thereof except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon. Schedule II drugs

(2) A pharmaceutical chemist may supply a drug listed or described in Schedule II or any preparation thereof to an adult person known to him or introduced to him by an adult person known to him if the pharmaceutical chemist enters in a poison register kept exclusively for the purpose Poison register

- (a) the date of the sale,
- (b) the name and amount of the drug or preparation,
- (c) the declared purpose for which the drug or preparation is required,
- (d) the signature of the purchaser,
- (e) the address of the purchaser,
- (f) the signature of the person, if any, who introduced the purchaser to the pharmaceutical chemist, and
- (g) the signature of the pharmaceutical chemist.

(3) The poison register mentioned in subsection (2) shall during the business hours of a pharmaceutical chemist be open to the inspection of any member of the Royal Canadian Mounted Police or any person authorized by the Commissioner to inspect that register. R.O. 1958, c. 87, s. 11. Inspection of poison register

12. (1) No pharmaceutical chemist shall supply any drug listed or described in Schedule III or any preparation thereof except pursuant to a written prescription signed by a medical practitioner, dentist or veterinary surgeon unless, prior to delivery, it is labelled with Schedule III drugs

- (a) the common name of the drug or preparation,
- (b) the design of skull and cross-bones,
- (c) the word "POISON" in large, bold type,
- (d) the name and address of the pharmaceutical chemist supplying the drug or preparation, and

- (e) the initials, written in ink, of the pharmaceutical chemist supplying the drug or preparation. R.O. 1958, c. 87, s. 12.

Storage of
Scheduled drugs

13. (1) A pharmaceutical chemist shall not store any drug listed or described in Schedule I, II or III in the portion of his premises where the public is admitted R.O. 1958, C. 87, s. 13.

Commissioner
may vary
schedules

14. (1) The Commissioner may alter or add to the list of drugs listed or described in the schedules or remove any drug therefrom. R.O. 1958, c. 87, s. 14.

OFFENCES AND PENALTIES

Offences for
unlicensed
practice

15. (1) A person who is not the holder of a licence and who

- (a) publicly or privately practises the profession of a pharmaceutical chemist ;
- (b) supplies any drug or preparation thereof ;
- (c) appends to his name the title pharmaceutical chemist, dispensing chemist, druggist, dispensing druggist, or apothecary or any word indicative of any such title or uses any substitution of abbreviation thereof ;
- (d) holds himself out in any way to be a duly qualified pharmaceutical chemist ; or
- (e) assumes any title or description implying, or designed to lead the public to believe, that he is duly qualified to practise as a pharmaceutical chemist ;

commits an offence.

Offence and
penalty

(2) A person who violates any provision of this Ordinance commits 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. R.O. 1958, c. 87, s. 15.

Time for
prosecution

16. (1) In the case of an offence under this Ordinance a complaint shall be made, or the information laid, within one year from the time when the matter of the complaint or information arose. R.O. 1958, c. 87, s. 16.

Onus of proof

17. (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. 87, s. 17.

INVESTIGATION AND REMOVAL

18. (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.

Removal for non-payment of fees

(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 of time for payment of fees before allowing the name of a person on whose behalf they are paid to be struck off the register but he shall in no case grant an extension of time exceeding sixty days.

Extension of time

(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. 87, s. 18.

Reinstatement

19. (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 person practising as a pharmaceutical chemist 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 pharmaceutical chemist.

Board of Inquiry

(2) Without restricting the generality of the expression "improper conduct" a pharmaceutical chemist is guilty of improper conduct who

Meaning of "improper conduct"

- (a) is convicted of an offence against an Act of Parliament of Canada relating to the sale of narcotics; or
- (b) is shown to be addicted to the excessive use of intoxicating liquors or narcotics.

(3) 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 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

(4) 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.

Frivolous and vexatious complaint

(5) 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 (4) such portion of the costs of the inquiry, or to the person complained against any portion of his costs, 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.

Quorum

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

Findings and recommendations

(7) 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.

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

Offence

- (9) 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 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,
- commits an offence. R.O. 1958, c. 87, s. 19.

20. (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 the finding to a judge. Appeal to judge

(2) The judge before whom an appeal is made under subsection (1) may hear the appeal at the time and in the manner he deems just and he may, by order, quash, alter or confirm the finding of the Board of Inquiry. R.O. 1958, c. 87, s. 20. Powers of judge

21. (1) Where a pharmaceutical chemist 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 pharmaceutical chemist in writing and note the reprimand in the register ;
- (b) in the case of a fine, make an order fining the pharmaceutical chemist 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 practitioner struck off the register and suspend his licence for the time 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 manner provided by subsection (1). R.O. 1958, c. 87, s. 21. Commissioner to enforce order of judge

Application for
reinstatement

22. (1) A pharmaceutical chemist whose name has been struck off the register and whose licence has been cancelled or suspended pursuant to section 21 may,

(a) where he had not taken any appeal from the finding, within one year after 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 after the date of an order under subsection 20(2), apply to a judge for an order directing the Territorial Secretary to have his name restored to the register.

Order by
Commissioner or
judge

(2) The Commissioner or a judge may, upon application under subsection (1), order the Territorial Secretary to reinstate the pharmaceutical chemist on the register and renew his licence and restore his rights and privileges in the manner and upon any conditions 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 the pharmaceutical chemist on the register and renew his licence and restore his rights and privileges in the manner and upon the conditions the order directs. R.O. 1958, c. 87, s. 22.

APPLICATION

Saving

23. (1) Nothing in this Ordinance shall be deemed to prohibit or prevent

(a) a medical practitioner from exercising a privilege conferred by any Ordinance relating to the practice of medicine and surgery in the Territory;

(b) any person from supplying goods of any kind to a pharmaceutical chemist, medical practitioner or dentist;

(c) a medical practitioner or dentist from supplying a patient with any medicine as he may require;

(d) an executor, administrator or trustee of the estate of a deceased pharmaceutical chemist from continuing the business of the deceased if the business is conducted by a pharmaceutical chemist;

(e) a member of the armed forces of Canada or of a visiting force as defined in the *Visiting Forces Act* from doing anything in the course of his duties as a member of such a force;

(f) any person from supplying any drug listed or described in Schedule IV;

- (g) any person from supplying any drug listed or described in Schedule V at a place that is at least five miles distant from a place where a pharmaceutical chemist is carrying on business; or
- (h) the manufacturing or supplying of any preparation registered under the *Proprietary or Patent Medicine Act*. R.O. 1958, c. 87, s. 23.

24. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. 1971 (1st), c. 20, s. 22 (3).

SCHEDULE I

DRUGS THAT MAY BE SUPPLIED ONLY PURSUANT TO A PRESCRIPTION
OF A MEDICAL PRACTITIONER, DENTIST OR VETERINARY SURGEON
(sec. 10)

Aminopyrine and any salt, homologue or derivative thereof and preparations containing aminopyrine and any salt, homologue or derivative thereof.

Amphetamine and any salt thereof and preparations containing amphetamine or any salt thereof.

Apiol and preparations containing apiol.

Atropine, and its salts and internal preparations containing more than 1/500 gr. per stated dose, or other preparations containing more than 0.1% by weight.

Barbituric acid and any salt, homologue or derivative thereof and preparations containing barbituric acid or salt, homologue or derivative thereof.

Bishydroxycoumarin, its salts and derivatives including Dicumarol, Cumopyran and Tromexan.

Carbomycin (magnamycin).

Chloral Hydrate and preparations containing chloral hydrate.

Chloramphenicol (Chloromycetin) and any salt or derivative thereof and preparations containing chloramphenicol or any salt or derivative thereof.

Chlortetracycline (Aureomycin) and any salt or derivative thereof and preparations containing chlortetracycline or any salt or derivative thereof.

Cinchophen and Neocinchophen and preparations containing cinchophen or neocinchophen.

Codeine and its salts and their preparations, except preparations containing one-eighth grain or less of codeine per tablet or other solid form, or liquid preparations containing one-third grain or less of codeine per fluid ounce, when such preparations are combined with other medical ingredients and the maximum dose prescribed for the preparation contains:

- (a) one such ingredient not less in quantity than the amount prescribed by the British Pharmacopoeia as a minimum dose for such ingredient;
- (b) two such ingredients having similar action, each not less in quantity than one-half the amount prescribed by the British Pharmacopoeia as a minimum dose for each such ingredient respectively; or
- (c) three such ingredients having a similar action each not less in quantity than one-third that amount prescribed by the British Pharmacopoeia as a minimum dose for each such ingredient, respectively.

- Corticotrophin (ACTH) and preparations containing corticotrophin.
- Cortisone and any salt or derivative thereof and preparations containing cortisone or any salt or derivative thereof (including hydrocortisone).
- Dihydrostreptomycin and any compound thereof and preparations containing dihydrostreptomycin or any compound thereof.
- 2:4-dinitrophenol and any compound, homologue or derivative thereof and preparations containing 2:4-dinitrophenol or any compound, homologue or derivative thereof.
- Ergot and its alkaloids and preparations containing ergot or its alkaloids.
- Erythromycin and any salt or derivative thereof, and preparations containing erythromycin or any salt or derivative thereof.
- Fumagilin.
- Hydrocyanic (Prussic) Acid.
- Hyoscine (Scopolamine) and its salts, and internal preparations containing more than 1/200 gr. per stated dose, or other preparations containing more than 0.05 per cent by weight.
- Isonicotinic Acid Hydrazide and any derivative thereof; and preparations containing isonicotinic acid hydrazide or any derivative thereof.
- Methamphetamine, and any salt thereof and preparations containing methamphetamine or any salt thereof.
- Oxytetracycline (Terramycin) and any salt or derivative thereof and preparations containing oxytetracycline or any salt or derivative thereof.
- Paraldehyde.
- Penicillin, its salts or derivatives, and preparations containing penicillin, its salts or derivatives, excluding lozenges containing not more than 3000 International Units per dose.
- Phenylbutazone and any derivative thereof and preparations containing phenylbutazone or any derivative thereof.
- Phenylindanedione (Danilone).
- Phenytoin-Sodium and other Hydrantoin derivatives and preparations containing phenytoin-sodium or other hydrantoin derivatives.
- Polymixin ('B' Sulphate), or any preparation thereof except for topical use or for local action in the oral cavity or nasal passages.
- Selenium or any salt thereof and preparations containing selenium or any salt thereof.
- Sex Hormones as defined by the *Food and Drug Regulations* except skin creams containing sex hormones which are demonstrated to be free of systemic effects.

- Streptomycin and any compound thereof and preparations containing streptomycin or any compound thereof.
- Sulphonal and Alkyl Sulphonals.
- Sulphonamides and any salt, homologue or derivative thereof and preparations containing sulphonamides or any salt, homologue or derivative thereof.
- Tetraethylthiuram disulphide and preparations containing tetraethylthiuram disulphide.
- Tetracycline (Achromycin) and any salt or derivative thereof and preparations containing tetracycline or any salt or derivative thereof.
- Thiocyanates.
- Thiouracil and any salt, homologue or derivative thereof and preparations containing thiouracil or any salt, homologue or derivative thereof.
- Thyroid and any preparations containing thyroid.
- Thyroxin or any salt thereof and preparations containing thyroxin or any salt thereof.
- Trimethadione or paramethadione or preparations of either of them.
- Ureides including Bromal or Carbromal and preparations containing ureides.
- Urethane and any preparations containing urethane.
- Viomycin and any compound thereof.

R.O. 1958, c. 87, Sched. A.

SCHEDULE II

DRUGS THAT MAY BE SUPPLIED TO ADULT PERSONS KNOWN OR INTRODUCED TO THE PHARMACEUTICAL CHEMIST AFTER ENTERING THE DRUG IN THE POISON REGISTER
(sec. 11)

- Aconite and alkaloids and preparations thereof, except external preparations containing less than 0.2% aconitine.
- Alkaloids: all poisonous vegetable alkaloids, not specifically mentioned elsewhere in these Schedules and their salts and all poisonous derivatives thereof.
- Amyl Nitrite.
- Arsenic and preparations and compounds thereof, except as provided in Schedule III.
- Belladonna and preparations and compounds thereof, except plasters and except as provided in Schedule III.
- Bromoform.
- Butyl Chloral Hydrate.
- Cantharides and preparations thereof.
- Carbolic Acid, pure, or of greater strength than five percent when mixed with water, or ten percent when mixed with glycerin and water, but not crude carbolic acid.

Chloroform.
Conium and preparations thereof.
Croton Oil.
Digitalis and preparations thereof.
Ether
Ethyl Chloride.
Hyoscyamus and preparations thereof.
Lobelia and alkaloids and preparations thereof except external preparations containing not more than the equivalent of 6 grains of crude lobelia.
Mercurial salts, except Calomel, and tablet form of corrosive sublimate, when sold in conformity with the requirements of the *Food and Drugs Act*.
Nitroglycerin.
Nux Vomica and preparations thereof.
Oil of Bitter Almonds, unless deprived of Hydrocyanic (Prussic) Acid.
Oil of Rue.
Oil of Savin.
Oil of Tansy.
Potassium Antimonyltartrate (Tartar Emetic).
Potassium Cyanide and all other metallic cyanides including cyanogas.
Santonin.
Stramonium and preparations thereof.
Strong solution of lead subacetate (Coulard's Extract).
Strophanthus and preparations thereof.
Strychnine, its salts and preparations thereof except as provided in Schedule III.
Yohimba and alkaloids thereof and preparations containing yohimba or alkaloids thereof.

R.O. 1958, c. 87, Sched. B.

SCHEDULE III

DRUGS THAT MAY BE SUPPLIED BY A PHARMACEUTICAL CHEMIST
TO ANY PERSON WHEN LABELLED "POISON", ETC.

(sec. 12)

Acid Chromic.
Acid Oxalic.
Acid Picric (Trinitrophenol).
Barium Chloride.
Barium Sulphide.
Benzene (benzol).
Benzene Hexachloride—Lindane, etc., Cammexane.

Carbon tetrachloride—"when, in addition to the requirements of section 12, the label bears the following wording: 'POISON—Vapours and odours from this solution are POISONOUS. Use only in open air or well ventilated room'."

Chlordane.

Copper carbonate.

Copper subacetate (Verdigris).

Copper sulphate.

Corrosive sublimate, when sold in accordance with legislation of Canada and regulations thereunder.

Cotton Root and preparations thereof.

Creosote and preparations thereof.

Cresol (Cresylic Acid) and its preparations, and the homologues of cresol and their preparations when stronger than 5% Cresol.

Crude Carbohc Acid.

Derris Root.

D.N.O.C.—), 5-dinitro-o-cresol, and any salt thereof.

DNOCHP—2, 4, dinitro-6-cyclonexylphenol.

Formaldehyde, whether described as Formaline or any other trade name, mark or designation.

Guaiacol.

Hellebore.

Henna.

Iodine and preparations thereof.

Lead Salts.

Methoxychlor.

Neotran—(Dow Chem. Co.)—bis p-chlorophenoxy) methane.

Oil of Cedar.

Oil of Chenopodium.

Oil of Pennyroyal.

Pennyroyal.

Phosphorus in a free state.

Picrotoxin.

Potassium Bichromate.

Potassium Hydroxide.

Potassium Permanganate.

Rotenone.

Rothane—dichlorodiphenyldichloroethane, including Schradan.

Sabadilla seeds.

Silver Nitrate.

Sodium Fluoride.

Sodium Hydroxide.

Stavesacre.

Thallium Salts.

Tobacco Extract.

Warfarin Compound 42 (WARF42) 3-(d-ace toxybenzyl)-4-hydroxycoumarin.

Zinc Salts.

Arsenic, Belladonna and Strychnine, when combined with other ingredients in preparation of pills, capsules, tablets, elixirs or syrups having medicinal qualities other than those possessed by the drugs named in this clause when taken alone, and in doses not exceeding those of the British Pharmacopoeia and generally recognized as safe medication.

R.O. 1958, c. 87, Sched. C.

SCHEDULE IV

DRUGS THAT MAY BE SUPPLIED BY ANY PERSON

(sec. 23 (f))

Acetylsalicylic Acid (in original packages) whether described as Aspirin, Acetophen, or any other trade name, mark, or designation.

Acid muriatic.

Acid Sulphuric (commercial).

Alum.

Borax.

Bicarbonate of Soda.

Castor Oil.

Cream of Tartar.

Carbonate of soda.

Carbonate of magnesia.

Chloride of Lime.

Di-sodium-Dibrom-Oxymercury-Fluorescein, whether described as "Mercurochrome" or any other trade name, mark or designation.

Epsom Salts.

Glauber's salts.

Glycerin.

Gum Camphor.

Hydrogen Peroxide.

Phenacetin.

Phosphate of Soda.

Rhubarb Root.

Rochelle Salt.

Saltpetre.

Senna.

Sulphur.

Solution of Ammonia.

Weak Tincture of Iodine (in original bottle).

Turpentine.

R.O. 1958, c. 87, Sched. D.

SCHEDULE V

DRUGS THAT MAY BE SUPPLIED BY ANY PERSON IN PLACES
AT LEAST FIVE MILES DISTANT FROM A PLACE WHERE A
PHARMACEUTICAL CHEMIST IS CARRYING ON BUSINESS
(sec. 23 (g))

Calomel.

Cresol (Cresylic Acid) and its preparations and the homologues
of Cresol and their preparations when weaker than 5% Cresol
and sold in original bottles.

Formaldehyde.

Oil of Cedar.

Potassium chloride.

Salol.

Sodium Salicylate.

Spirit of Nitre.

R.O. 1958, c. 87, Sched. E.

CHAPTER P-5

PLEBISCITE ORDINANCE

1. This Ordinance may be cited as the *Plebiscite Ordinance*. Short title
1969 (1st) c. 3, s. 1.

2. (1) Whenever it appears to the Commissioner that an expression of opinion of the public is necessary or desirable on any matter, the Commissioner may direct by regulation that a plebiscite be held. Plebiscite may be held

(2) A direction under subsection (1) shall not be made unless funds to pay for the cost have been appropriated. 1969 (1st) c. 3, s. 2.

3. (1) The Commissioner may make regulations Regulations

- (a) prescribing forms required under the Ordinance ;
- (b) defining the public for the purpose of a plebiscite ;
- (c) prescribing the procedure to be followed in connection with the taking of a plebiscite; and generally for carrying out the provisions of this Ordinance. 1969 (1st) c. 3, s. 3.

CHAPTER P-6

POUNDS ORDINANCE

1. This Ordinance may be cited as the *Pounds Ordinance*. R.O. 1958, c. 90, s. 1. Short title

2. (1) In this Ordinance Definitions

"animal" means horse, mule, jack, goat, neat cattle, swine or geese; "animal"

"lawful fence" means a fence that is not less than four feet six inches high and consists of such course of rails or wire as may reasonably appear sufficient for the protection of the ground within its bounds from animals. R.O. 1958, c. 90, s. 2. "lawful fence"

3. (1) This Ordinance does not apply within a municipality. R.O. 1958, c. 90, s. 3. Ordinance not applicable to municipalities

4. (1) The Commissioner may constitute any part of the Territory a pound district, and appoint therefor one or more pound-keepers. R.O. 1958, c. 90, s. 4. Commissioner may constitute pound districts and appoint pound-keepers

5. (1) The owner or occupier of land surrounded by a lawful fence, or the agent or either of them, may capture an animal trespassing upon his land and deliver it to the nearest pound-keeper of the pound district in which the trespass was committed.

(2) Where an animal breaks a lawful fence and causes damage to land partly enclosed by such fence and partly enclosed by a fence that is not a lawful fence, the owner or occupier of the land may deal with the animal in the same manner as if the land were entirely enclosed by a lawful fence. Where land only partly enclosed by lawful fence

(3) Where an animal breaks through a division fence that the owner of the animal is bound to repair and keep up, the owner of the land where the animal breaks through may, whether the division fence is a lawful fence or not, capture the animal and deliver it to the nearest pound-keeper in the pound district where the land is situate. R.O. 1958, c. 90, s. 5. Trespass through division fence

Where animal running at large

6. (1) Any person may capture an animal running at large and deliver it to the pound-keeper of the district where the animal was found running at large. R.O. 1958, c. 90, s. 6.

Liability of landowner for animal kept on his land

7. (1) An owner or occupier of land where an animal is kept, or the person in charge of the animal, is liable for any damage caused by the animal as if the animal were his property.

Liability of owner of animal running at large

(2) The owner of an animal who permits the animal to run at large is liable for any damage done by the animal, whether the land where such damage is done is surrounded by a lawful fence or not. R.O. 1958, c. 90, s. 7.

Duty of person who delivers animal to a pound-keeper

8. (1) A person who delivers an animal to a pound-keeper shall

- (a) leave with the pound-keeper a statement in writing of his claim for damages done by the animal and his reasonable charges incurred in delivering it to the pound-keeper;
- (b) deposit such poundage fees if demanded as the pound-keeper considers reasonable; and
- (c) sign an agreement in Form A in Schedule I to pay the owner all damages caused by the capture of the animal in case the capture was illegal, or his claim for damages is not established. R.O. 1958, c. 90, s. 8.

Duty of pound-keeper towards impounded animal

9. (1) Subject to section 8, the pound-keeper shall impound every animal delivered to him for that purpose and shall be responsible for feeding it and its safe keeping as long as he is legally bound to hold the animal. R.O. 1958, c. 90, s. 9.

Pound-keeper to collect damages, etc. before delivering animal to owner

10. (1) Subject to subsection (2), before delivering an animal to its owner the pound-keeper shall collect from him the amount of the damages, charges of the keep, and other incidental expenses connected with the animal.

Security in lieu of damages, etc.

(2) Notwithstanding subsection (1), the owner of an impounded animal is entitled on demand to his animal without payment of any damages, charges or other expenses on giving satisfactory security for such damages, charges and expenses.

Owner entitled to recover animal on tender of damages, etc.

(3) The owner of an animal captured or impounded under this Ordinance is entitled to recover it upon tender of all damages committed and all reasonable charges incurred up

to the time of tender from any person in whose possession the animal is. R.O. 1958, c. 90, s. 10.

11. (1) Upon impounding an animal, the pound-keeper shall immediately notify the owner, if known, of the impounding. Pound-keeper to notify owner where known

(2) If, within three days after notification under subsection (1), the owner does not pay all lawful damages and other charges or security in lieu thereof, and take his animal, the pound-keeper shall sell the animal by public auction after posting notices for at least ten days of the time and place of the auction in three of the most public places in the pound district. R.O. 1958, c. 90, s. 11. Sale of animal

12. (1) Upon impounding an animal, the pound-keeper shall, if the owner is not known, cause to be posted in three of the most public places in the pound district, a notice giving as full a description of the animal as possible. Where owner not known

(2) Where the animal referred to in subsection (1) is one of the neat cattle species over two years old or a horse, mule or jack and no owner is found at the end of twenty days, the pound-keeper shall advertise and sell the animal in the manner provided for in subsection 11 (2). Sale of animal

(3) Where the animal referred to in subsection (1) is not one described in subsection (2), and no owner is found within six days, the pound-keeper shall advertise and sell the animal in the manner provided for in subsection 11 (2). R.O. 1958, c. 90, s. 12. Idem

13. (1) The pound-keeper shall apply the proceeds of a sale under section 11 or 12 first, in payment of his fees, secondly, the damages and reasonable charges of the person who delivered the animal to him, and the balance, if any, shall be paid to the owner of the animal. Application of proceeds

(2) If the owner of an animal sold under this section is not known, the money that would be paid to him if known shall be paid at the expiration of three months to the Territorial Treasurer. Payment to Territorial Treasurer if owner not known

(3) If the owner does not within one year claim the money paid to the Territorial Treasurer under subsection (2), it shall be paid into and form part of the Yukon Consolidated Revenue Fund. R.O. 1958, c. 90, s. 13. Payment into Y.C.R.F.

Pound-keeper
not to purchase
animal

14. (1) A pound-keeper shall not directly or indirectly become the purchaser at any sale conducted under his direction. R.O. 1958, c. 90, s. 14.

Person deliver-
ing animal
entitled to
damages and
charges

15. (1) The person who delivers an animal to a pound-keeper is entitled to any damages suffered by him and his reasonable expenses in connection with the animal. R.O. 1958, c. 90, s. 15; 1971 (1st) c. 20, s. 23(1).

Pound-keeper
not to neglect
duties

16. (1) No pound-keeper shall neglect his duty under this Ordinance.

Prohibitions

- (2)** No person shall
- (a) rescue an animal from a person lawfully taking it to the pound,
 - (b) make a breach of a pound, or
 - (c) unlawfully set at large an animal impounded. R.O. 1958, c. 90, s. 16.

Disputes

17. (1) Where a dispute arises as to any matter under this Ordinance, or a complaint is made that a fine should be imposed under this Ordinance, a justice of the peace may, if it is brought before him, dispose of the same in a summary manner. R.O. 1958, c. 90, s. 17.

Right of action
not impaired

18. (1) Nothing in this Ordinance impairs the right of any person to an action for damages occasioned by a trespassing animal, whether the action exists at common law or by virtue of a statute or ordinance. R.O. 1958, c. 90, s. 18.

Returns to
Commissioner

19. (1) Every pound-keeper shall, on the 31st day of December in each year, forward to the Commissioner a return in such form as the Commissioner directs.

Form

- (2)** The return mentioned in subsection (1) shall set out
- (a) the animals impounded during the year,
 - (b) the amount of damages and other charges made,
 - (c) all sales made by the pound-keeper,
 - (d) the surplus, if any, made on each sale, and
 - (e) the disposition of every surplus. R.O. 1958, c. 90, s. 19.

Where weak
animal running
at large

20. (1) A person who finds an animal running at large in a weak or poor condition shall notify the nearest detachment of the Royal Canadian Mounted Police.

(2) The police notified under subsection (1) may, if the owner is known, order him to feed the animal or to kill it, and the owner shall comply with such order.

Police may order owner to feed animal, etc.

(3) When the owner of an animal of which police have been notified under subsection (1) is not known, the police may have the animal impounded and it shall then be dealt with in accordance with section 12, except that it may be sold after twelve days in the pound. R.O. 1958, c. 90, s. 20.

If owner not known animal to be impounded

21. (1) If no purchaser can be found for an animal at the pound-keeper's sale, the pound-keeper may kill it and sell it for dog or fox food unless it can be disposed of by private sale. R.O. 1958, s. 90, s. 21.

Where no purchaser at sale

22. (1) A person who violates a provision of this Ordinance commits an offence, and is liable on summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 90, s. 22.

Offence and penalty

23. (1) The Commissioner may prescribe the fees to be paid to pound-keepers. 1971 (1st) c. 20, s. 23(2).

SCHEDULE I

FORM A

I, A.B., do agree that I will pay to the owner of the (*description of the animal*) by me this day impounded, all costs to which the said owner is put in case the distress by me proves to be illegal, or in case the claim for damages by me fails to be established.

R.O. 1958, c. 90, Form A.

CHAPTER P-7

PRESUMPTION OF DEATH ORDINANCE

1. This Ordinance may be cited as the *Presumption of Death Ordinance*. 1952 (5th) c. 5, s. 1. Short title

2. (1) Upon application to be heard after such notice as the Court deems proper, the Court, if satisfied that Presumption of death order

- (a) a person has been absent and not heard of or from by the applicant, or to the knowledge of the applicant by any other person, since a day named;
- (b) the applicant has no reason to believe that the person is living; and
- (c) reasonable grounds exist for supposing that the person is dead,

may make an order declaring that the person shall be presumed to be dead for all purposes, or for such purposes only as are specified in the order.

(2) The order shall state the date on which the person is presumed to have died or the date after which the person is presumed not be living. 1965 (5th) c. 5, s. 3.

3. (1) An order, or a certified copy thereof, declaring that a person is presumed dead for all purposes or for the purposes specified in the order is proof of death in all matters requiring proof of death. 1965 (5th) c. 5, s. 4. Certified copy of order sufficient as evidence

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

CHAPTER P-8

PUBLIC HEALTH ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Public Health Ordinance*. R.O. 1958, c. 92, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
- “communicable disease” means a disease listed in Schedule I and any other disease declared by the Commissioner to be a communicable disease; “communicable disease”
 - “Health Officer” means a person appointed by the Commissioner to act as a Health Officer; “Health Officer”
 - “licensed medical practitioner” means a medical practitioner as defined in the *Medical Profession Ordinance*; “licensed medical practitioner”
 - “Medical Health Officer” means a licensed or duly qualified medical practitioner appointed by the Commissioner to act as a Medical Health Officer; “Medical Health Officer”
 - “municipality” means a municipality as defined in the *Municipal Ordinance*; “municipality”
 - “regulation” means any rule, order or regulation made by the Commissioner under the authority of this Ordinance; R.O. 1958, c. 92, s. 2; 1959 (1st) c. 8, s. 1. “regulation”

PART I

PUBLIC HEALTH AND SANITATION

3. (1) The Commissioner may make regulations respecting Regulations of Commissioner
- (a) the control and prevention of communicable diseases, including
 - (i) the reporting by every medical practitioner of persons under his treatment suffering from a communicable disease,
 - (ii) the isolation or placing in a hospital or building provided for quarantine or isolation purposes, or in any other proper place, of any person suffering from a communicable disease,
 - (iii) the detention for observation and surveillance of persons who have been exposed to a communicable disease,
 - (iv) the cleansing, purification, disinfection or disinfection of articles or things used by persons suffering from a communicable disease,

- (v) the supply of medical aid, accommodation and medicine and such other articles or things as the Commissioner deems necessary for the mitigation of any epidemic or communicable disease,
 - (vi) the entry into the Territory of vehicles, vessels and other conveyances, including aircraft, and their departure therefrom and the receiving and discharging of passengers or cargoes in, on board or from the same, and
 - (vii) the vaccination or inoculation against communicable diseases of persons or animals in the Territory and the supply and distribution of vaccine matter and serum used in performing such vaccinations or inoculations;
- (b) the location of cemeteries, the burial of unclaimed bodies and the bodies of indigents, the interment of the dead, the conduct of funerals and the transportation of dead bodies;
 - (c) the location, construction, ventilation, lighting, heating, equipment, water supply, drainage, toilet and ablution facilities, excreta and garbage disposal, protection against rodents and vermin, cleansing, disinfection and disinfestation of, and the sanitary inspection and control of
 - (i) buildings and premises of any kind whatsoever, and
 - (ii) aircraft, ships, vessels and other public conveyances of any kind;
 - (d) the prevention and removal of insanitary conditions on public or private property;
 - (e) the prevention of overcrowding of premises used for human occupation and places of public assembly, and specifying the amount of air space to be allowed for each individual therein;
 - (f) the cleaning of streets, lanes, yards, lots and other open spaces, both public and private;
 - (g) the location, construction, ventilation, inspection, cleaning and sanitary control of sewers, sewage systems, water closets, indoor and outdoor toilets, cess-pools, soakage pits, septic tanks and pumps;
 - (h) the location, construction, maintenance and inspection of plumbing and plumbing systems or installations in or upon any building, structure, property or place;

- (i) the control of waste disposal grounds for the disposal of excreta and garbage ;
- (j) the location, construction, maintenance, purification and treatment of water supplies and systems, the testing and analysis of water therefrom, the inspection and approval of sources of water supply, and the addition of such chemicals thereto as, in the opinion of the Commissioner, are considered to be in the interests of public health ;
- (k) the cutting, storage, distribution and sale of ice ;
- (l) the sanitary inspection and control of food supplies, including milk and milk products of any kind, for human consumption, and of domesticated or range animals, stables, pens or lines, and testing of animals for tuberculosis, infectious bovine abortion or any disease communicable to human beings ;
- (m) the medical and sanitary inspection and control of food handlers ;
- (n) the use of noxious materials including fertilizers, sprays or preservatives dangerous to the public health ;
- (o) the protection of the health of persons exposed to conditions, substances or processes occurring to any industry or occupation and that may be injurious to health ;
- (p) the method of carrying on noxious or offensive trades or businesses and the summary abatement of unsanitary conditions or conditions dangerous to the public health arising therefrom ;
- (q) the prevention of the pollution, defilement, discoloration or fouling of lakes, streams, rivers, ponds, pools, springs and water courses, so as to ensure their sanitary condition ;
- (r) the prevention, control and abatement of air pollution due to any cause ;
- (s) the confinement and disposition of diseased or injured animals and the disposal of dead animals ;
- (t) the medical and dental inspection of school children and of the occupants of any public institutions including hostels, gaols and lockups ;
- (u) the use of hydrocyanic acid and other lethal gas or substances as an insecticide or rodenticide, and the licensing and regulation of persons engaged in the business of vermin or rodent extermination ; and
- (v) the provision of medical care for skilled or unskilled labourers in mining, prospecting, fishery, lumber, dredging or construction camps in an area remote from hospital and medical facilities. R.O. 1958, c. 92, s. 3; 1959 (1st) c. 8, s. 2(1)-(2); 1962 (5th) c. 12, s. 1.

QUARANTINE DISTRICTS

Quarantine districts

4. (1) The Commissioner may by order declare any area or district in the Territory to be a quarantine district, where he has reason to believe that an epidemic of communicable disease exists.

(2) Where any area or district is declared to be a quarantine district, a Health Officer has power to

- (a) prevent the entrance or exit of persons, or vehicles, vessels or other conveyances, including aircraft, to or from the quarantine district;
- (b) detain for observation and surveillance persons who have been exposed to a communicable disease; and
- (c) order the cleansing, purifying, disinfection or disinfection of persons who have been exposed to a communicable disease, or of articles or things used by persons suffering from a communicable disease at the expense of the owner, occupier, custodian or person in charge or possession thereof. R.O. 1958, c. 92, s. 4.

MEDICAL HEALTH OFFICERS AND HEALTH OFFICERS

Council may appoint Medical Health Officer or Health Officer

5. (1) Subject to section 6, the council of a municipality may appoint

- (a) a licensed medical practitioner as Medical Health Officer for the municipality; or
- (b) if no licensed medical practitioner is available, some suitable person as Health Officer, and such person shall hold office during pleasure.

Establishment of Health Districts and appointment of Medical Health Officer or Health Officer

(2) The Commissioner may by order establish in areas of the Territory not within a municipality one or more Health Districts and may for each Health District appoint

- (a) a licensed medical practitioner as Medical Health Officer, or
- (b) some other suitable person as Health Officer, and such person shall hold office during pleasure. 1962 (5th) c. 12, s. 2.

Approval of Medical Health Officer or Health Officer

6. (1) Where a municipality has entered into an agreement authorized by a by-law passed pursuant to the *Municipal Ordinance*, if the party providing public health services to the municipality pursuant to the agreement disapproves in writing of the person holding the office of Medical Health Officer or Health Officer, the council shall dismiss him and appoint a person approved by the party providing the public health services.

Idem

(2) Any appointment to the office of Medical Health Officer or Health Officer during the term of an agreement

referred to in subsection (1) shall be subject to the approval of the person providing the public health services. 1962 (5th) c. 12, s. 2.

BOARDS OF HEALTH

7. (1) The council of a municipality for which a Medical Health Officer or Health Officer has been appointed may appoint a Board of Health for the municipality. Appointment of Board of Health.

(2) If the council of a municipality described in subsection (1) has not appointed a Board of Health, the Commissioner may by letter addressed to the clerk of the municipality request the council to appoint a Board of Health. Commissioner may request appointment of Board of Health

(3) If within two months of the mailing of the letter referred to in subsection (2) the council has not appointed a Board of Health, the Commissioner may appoint a Board of Health for the municipality. Appointment by Commissioner

(4) The expenses of a Board of Health appointed pursuant to subsection (3) shall be borne by the municipality for which it is appointed. 1962 (5th) c. 12, s. 2. Expenses of Board of Health

8. (1) The Commissioner may appoint Boards of Health for areas in the Territory not within a municipality. 1962 (5th) c. 12, s. 2. Boards of Health for areas outside a municipality

9. (1) A Board of Health established by a council shall consist of the Medical Health Officer or Health Officer of the municipality and four ratepayers not more than two of whom shall be members of the council. Board of Health appointed by council

(2) The council shall designate one of the members as chairman of the Board and another as secretary of the Board. Chairman and secretary

(3) Subject to subsection (4), the term of office of Term of office

(a) a member of the Board who is also a member of council shall be for a period fixed by the council at the time of his appointment or, if he ceases to be a member of the council before the expiry of the period so fixed, until he ceases to be a member of the council;

(b) the member of the Board who is the Medical Health Officer or the Health Officer shall be for the period during which he holds the office of Medical Health Officer or Health Officer; and

(c) members of the Board not described in paragraph (a) or (b) shall be for a period of three years.

(4) Any member of the Board may be reappointed for a term to be determined by the council except that no member shall be reappointed if, Reappointment of member

- (a) on the expiry of his term of office he has been a member of the Board for nine consecutive years; or
- (b) the term for which it is intended to reappoint him would result in his being a member of the Board for more than nine consecutive years.

Meetings (5) Meetings of the Board shall be held at least once a month at the call of the chairman or at any time on the demand of any three members.

Minutes (6) A copy of the minutes of each meeting of the Board shall be filed with the clerk of the council.

Rules (7) The Board may make rules governing its proceedings, the conduct of its meetings, the appointment of committees and generally for the transaction of its business.

Annual report (8) The chairman shall submit to the council within three months following the end of each year a report on public health services and conditions in the municipality. 1962 (5th) c. 12, s. 2.

Duties 10. (1) The duties of a Board of Health established by a council are

- (a) to advise the council on matters pertaining to public health in the municipality;
- (b) to administer within the municipality the *Public Health Ordinance* and regulations and any by-laws pertaining to public health passed by the council; and
- (c) to administer local public health services and to advise the council with respect to financial matters pertaining thereto including cost-sharing arrangements with other agencies for the provision of these services. 1962 (5th) c. 12. s. 2.

Board of Health established by Commissioner 11. (1) A Board of Health established by the Commissioner shall consist of as many members as he may designate but not less than three.

Chairman and secretary (2) The Commissioner shall appoint one of the members as chairman of the Board and another member as secretary of the Board.

Term of office (3) The term of office of a member shall be as designated by the Commissioner at the time of his appointment.

Rules (4) The Board may make rules governing its proceedings, the conduct of its meetings, the appointment of committees and generally for the transaction of its business.

Duties (5) The duties of the Board shall be those assigned to it by the Commissioner.

Annual report (6) The chairman shall submit to the Commissioner within three months following the end of each year a report on

public health services and conditions in the area in which the Board has jurisdiction. 1962 (5th) c. 12, s. 2.

12. (1) In the case of a Board of Health appointed by the Commissioner pursuant to subsection 7(3) a copy of the report referred to in subsection 11(6) shall be sent to the mayor of the municipality for which the Board was appointed. 1962 (5th) c. 12, s. 2.

Annual report to mayor of municipality

PART II

ENFORCEMENT

13. (1) Health Officer may, at any reasonable time, enter any place and examine the same for any purpose relating to the enforcement of this Ordinance or the regulations. R.O. 1958, c. 92, s. 11.

Right to enter and examine

14. (1) Where a Health Officer is authorized to direct that any matter or thing relating to the enforcement of this Ordinance or the regulations be done by a person and the person fails to comply with any direction so given, the Health Officer may, with the approval of the Commissioner, direct and arrange that the matter or thing be done at the expense of that person.

Direction given by Health Officer

(2) All expenses incurred under subsection (1) are recoverable by the Commissioner as an ordinary debt. R.O. 1958, c. 92, s. 12.

Expenses recoverable as debt

15. (1) A Health Officer may, when the safety of persons appears to make it necessary, seize, detain and carry away any article or thing by means of which or in relation to which he has reasonable grounds for believing that any provision of this Ordinance or the regulations has been violated.

Seizure and detention

(2) Any article or thing seized pursuant to subsection (1) may, with the approval of the Commissioner, be destroyed or otherwise disposed of at the direction of the Health Officer, except that the Health Officer shall, where he is satisfied that the provisions of this Ordinance and the regulations with respect thereto have been complied with, release any article or thing seized by him pursuant to subsection (1) to the person from whom the same was seized. R.O. 1958, c. 92, s. 13.

Idem.

16. (1) A Health Officer has for any purpose relating to the enforcement of this Ordinance or the regulations, all the powers of a peace officer while acting in his capacity as a Health Officer and in the performance of his duties under this Ordinance or the regulations, and where any Health Officer is obstructed in the performance of any duty he may call to his assistance any peace officer or other person he

Powers of Health Officer, assistance, etc.

thinks fit, who shall give him all reasonable assistance. R.O. 1958, c. 92, s. 14; 1959 (1st) c. 8, s. 4.

Powers of
Medical Health
Officer, etc.

17. (1) For the purposes of this Ordinance, a Medical Health Officer has all the powers of a Health Officer. R.O. 1958, c. 92, s. 15.

Exemption

18. (1) The Commissioner may exempt any person or thing from all or any of the provisions of this Ordinance or the regulations, upon any terms and conditions as he may specify. R.O. 1958, c. 92, s. 16.

Offences and
punishment

19. (1) Every person who

- (a) violates any of the provisions of this Ordinance or the regulations;
- (b) obstructs a Medical Health Officer or Health Officer in the exercise of his powers or in the carrying out of his duties under this Ordinance or the regulations;
- (c) neglects, fails or refuses to comply with an order or direction given to him by a Medical Health Officer or Health Officer in the exercise of his powers or the carrying out of his duties under this Ordinance or the regulations;
- (d) without the authority of a Medical Health Officer or Health Officer, removes, alters or interferes in any way with anything seized or detained under this Ordinance; or
- (e) owns, constructs, operates or maintains any installation, building, place or thing mentioned in this Ordinance or the regulations that does not comply with the requirements thereof;

commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months, or both fine and imprisonment. R.O. 1958, c. 92, s. 17; 1959 (1st) c. 8, s. 5.

PART III

20. (1) Where the Commissioner is satisfied that a case of medical necessity has arisen in connection with any person, he may pay some or all of the travel expenses of that person for treatment at the nearest place at which suitable medical treatment is available. 1971 (1st) c. 25, s. 1.

21. (1) For the purpose of carrying into effect the provisions of this Ordinance, the Commissioner may make any 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, and regulations made under this section shall have the same force and effect as if incorporated in this Ordinance. 1971 (1st) c. 25, s. 1.

SCHEDULE I

COMMUNICABLE DISEASES

1. Anthrax
2. Brucellosis (Undulant fever)
3. Cholera
4. Diarrhoea of the Newborn, epidemic
5. Diphtheria
6. Dysentery—
 - (1) Amoebic
 - (2) Bacillary
 - (3) Unspecified
7. Encephalitis, infectious
8. Food Poisoning—
 - (1) Staphylococcus intoxication
 - (2) Salmonella infections
 - (3) Botulism
 - (4) Unspecified
9. Hepatitis, infectious (including serum hepatitis)
10. Hydatid Disease
11. Impetigo of the Newborn (*Pemphigus neonatorum*)
12. Influenza, epidemic
13. Leprosy
14. Malaria
15. Measles (Morbilli)
16. German Measles (Rubella)
17. Meningitis, viral or aseptic—
 - (1) Due to Poliomyelitis virus
 - (2) Due to Coxsackie virus
 - (3) Due to ECHO Virus
 - (4) Unspecified
18. Meningococcal Infections
19. Pertussis (Whooping cough)
20. Plague
21. Poliomyelitis, paralytic
22. Psittacosis and Ornithosis
23. Rabies
24. Relapsing Fever, louse-borne

25. Rickettsial Infections—
 - (1) Typhus, louse-borne
 - (2) Rocky Mountain Spotted Fever
 - (3) Q-Fever
 - (4) Unspecified
26. Scarlet Fever
27. Smallpox
28. Streptococcal Sore Throat
29. Tapeworm Infestations
30. Tetanus
31. Trachoma
32. Trichinosis
33. Tuberculosis—
 - (1) Pulmonary
 - (2) Meningitis
 - (3) Unspecified
34. Tularaemia
35. Typhoid and Paratyphoid Fevers
36. Venereal Diseases—
 - (1) Gonorrhoea
 - (a) Ophthalmia neonatorum
 - (b) All other forms
 - (2) Syphilis
 - (a) Acquired
 - (i) primary
 - (ii) secondary
 - (iii) latent
 - (iv) tertiary—cardiovascular
 - (v) tertiary—neurosyphilis
 - (vi) tertiary—other
 - (b) Prenatal—congenital
 - (c) Unspecified
 - (3) Chancroid
 - (4) Granuloma Inguinale
 - (5) Lymphogranuloma Venereum
37. Yellow Fever
38. Epidemic forms of other diseases
39. Unusual clinical manifestations of disease.

R.O. 1958, c. 92, Sched. A; 1961 (1st) c. 9, s. 1.

CHAPTER P-9

PUBLIC PRINTING ORDINANCE

1. This Ordinance may be cited as the *Public Printing Ordinance*. R.O. 1958, c. 93, s. 1. Short title

2. (1) The Commissioner may authorize the publication, in such form as he may prescribe, of an official gazette to be called the *Yukon Gazette* for the publication of proclamations, official and other notices and of all matters that are required to be published therein. R.O. 1958, c. 93, s. 2. Official gazette

3. (1) All advertisements, notices and documents that relate to matters within the control of the Commissioner in Council and are by any law required to be published shall be published in the *Yukon Gazette* unless some other mode of publication is prescribed by law. R.O. 1958, c. 93, s. 3. Publication in gazette required

4. (1) The Commissioner may appoint an officer who shall be known as the Queen's Printer. R.O. 1958, c. 93, s. 4. Queen's Printer

5. (1) The Queen's Printer under the direction of the Commissioner has the management and control of the printing and stationery requirements of the Territory and has such other powers and shall discharge such other duties as are conferred or imposed upon him by the Commissioner. R.O. 1958, c. 93, s. 5. Powers and duties of Queen's Printer

6. (1) The Queen's Printer shall print and publish or cause to be printed and published the *Yukon Gazette*, the Ordinances of the Yukon Territory and such documents and announcements as the Commissioner may require. R.O. 1958, c. 93, s. 6.

CHAPTER P-10

PUBLIC SERVICE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Public Service Ordinance*. 1967 (1st) c. 3, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
- "allowance" means compensation payable "allowance"
 - (a) in respect of a position, or in respect of some of the positions in a class, by reason of duties of a special nature, or
 - (b) for duties that an employee is required to perform in addition to the duties of his position ;
 - "adjudicator" means an adjudicator appointed pursuant to section 80 of the *Yukon Public Service Staff Relations Ordinance*; "adjudicator"
 - "classify" in relation to a position means to assign a position to a class; "classify"
 - "Director of Personnel" means the officer appointed by the Commissioner to be in charge of personnel services; "Director of Personnel"
 - "employee" means a person employed in the public service; "employee"
 - "establishment" means those positions in a unit to which appointments may be made by the Commissioner; "establishment"
 - "head of a unit" or "unit head" in relation to any department or division of the public service means the head of that department or division; "head of a unit" or "unit head"
 - "incompetence" means incompetence of an employee in the performance of his duties and includes negligence; "incompetence"
 - "lay-off" means a person who has been laid off pursuant to subsection 29 (1) and who in the opinion of the Commissioner is suitable for continued employment in the public service; "lay-off"
 - "misconduct" means misconduct of an employee in the performance of his duties, and includes bringing the public service into disrepute; "misconduct"
 - "public service" means the several positions in or under the Government of the Yukon Territory; "public service"
 - "remuneration" means pay and allowances; "remuneration"

"unit" "unit" means the various departments and divisions of the public service designated by the Commissioner as units.

Delegation by head of unit (2) The Commissioner may authorize a unit head to exercise and perform, in a manner and subject to any terms and conditions as the Commissioner directs, any of the powers, functions and duties of the Commissioner under this Ordinance, other than the powers, functions and duties of the Commissioner in relation to grievances under section 24 or 27 and inquiries under section 28.

Reference to head of unit (3) Unless the context otherwise requires, a reference in this Ordinance to a head of a unit in relation to an employee shall be construed as a reference to the head of a unit in which the employee is employed. 1967 (1st) c. 3, s. 2; 1970 (2nd) c. 8, s. 1 (1)-(2).

MANAGEMENT AND DIRECTION

Powers of Commissioner 3. (1) The Commissioner has the management and direction of the public service. 1967 (1st) c. 3, s. 3.

ORGANIZATION OF THE PUBLIC SERVICE CLASSIFICATION

Classes 4. (1) The Commissioner shall divide the public service into classes of employment and shall classify each position therein.

Standards (2) The Commissioner shall define each class by reference to standards of duties, responsibilities and qualifications and shall give it an appropriate title.

Content of class (3) Each class shall embrace all positions in a class having similar duties and responsibilities and requiring similar qualifications of persons appointed to a position in the class.

Amendments (4) The Commissioner may divide, combine, alter or abolish any class. 1967 (1st) c. 3, s. 4; 1970 (2nd) c. 8, s. 2.

PAY AND ALLOWANCES

Considerations determining pay rates 5. (1) The Commissioner shall keep under review the rates of remuneration to employees having regard to

- (a) the requirements of the public service;
(b) the rates of pay and other terms and conditions of employment prevailing in Canada for similar work outside the public service;
(c) the relationship of the duties of the various classes within the public service; and
(d) any other considerations that the Commissioner considers to be relevant. 1967 (1st) c. 3, s. 5.

6. (1) The Commissioner shall establish rates of pay for each class and establish the allowances that may be paid in addition to pay. 1967 (1st) c. 3, s. 6; 1970 (2nd) c. 8, s. 3. Commissioner to fix pay and allowances

7. (1) The rates of pay for classes shall consist of minimum rates, maximum rates and one or more intermediate rates, or such other rates as may in any special cases be appropriate. 1967 (1st) c. 3, s. 7; 1970 (2nd) c. 8, s. 4. Form of rates

8. (1) Where an employee is required to perform for a temporary period the duties of a higher position than the one held by him, the Commissioner may in accordance with the regulations authorize the payment to him of acting pay during the temporary period, and during the time that the employee is being paid acting pay, he has and may exercise the power and authority of the person holding the higher position. 1967 (1st) c. 3, s. 8. Acting pay

9. (1) Unless authorized by or under this Ordinance or any other Ordinance, no payment additional to the remuneration authorized by law shall be made to any employee in respect of any service rendered by him. No extra remuneration

(2) Nothing in this section shall be construed to prohibit Exceptions

- (a) payment to an employee of remuneration in respect of each of two or more positions, if the remuneration in respect of one position is not sufficient to compensate him for his whole time and the total remuneration of the employee does not, in the opinion of the Commissioner, exceed reasonable remuneration for the duties performed; or
- (b) payment to one employee who is on leave of absence from his position and is performing other duties of such amount or at such rate as the Commissioner may fix. 1967 (1st) c. 3, s. 9.

ESTABLISHMENTS

10. (1) When a unit is constituted, the head of that unit shall prepare a statement showing Organization of units

- (a) the number of employees required for the proper conduct of the business of the unit;
- (b) the duties and responsibilities of each employee and the qualifications desired; and
- (c) the plan of organization showing the relationship between the persons to be employed therein. 1967 (1st) c. 3, s. 10.

- Classification** **11.** (1) The head of a unit shall refer the statement prepared under section 10 to the Commissioner who shall classify the position of each proposed employee.
- Establishments** (2) The head of a unit shall prepare a list of proposed positions showing the class title of each position and, when approved by the Commissioner, the positions constitute the establishment for the unit.
- Pay** (3) The rate of pay applicable to a position as described on an establishment is the rate established by the Commissioner for the class within which the position is included. 1967 (1st) c. 3, s. 11; 1970 (2nd) c. 8, s. 5.
- Classification of new positions** **12.** (1) When a head of a unit is of the opinion that the proper functioning of his unit requires the addition of a position to the establishment of the unit, he may submit to the Commissioner a description of the proposed position setting forth
- (a) the duties to be performed;
 - (b) the responsibilities to be assumed; and
 - (c) the qualifications desired,
- and the Commissioner, if he approves, shall classify the position and the establishment of the unit shall be deemed to be amended accordingly. 1967 (1st) c. 3, s. 12.
- Establishment review** **13.** (1) The Commissioner may from time to time review the establishment of units and may delete positions from or add positions to the establishment of a unit. 1967 (1st) c. 3, s. 13.

APPOINTMENTS

- Exclusive right to appoint** **14.** (1) The Commissioner has the exclusive right and authority to appoint persons to positions in the public service. 1967 (1st) c. 3, s. 14.
- Appointments to be by competition within the public service** **15.** (1) Whenever in the opinion of the Commissioner it is possible to do so and it is in the best interests of the public service, appointments shall be made from within the public service by competition.
- Appointments from within public service without competition** (2) Where, in the opinion of the Commissioner, after considering any recommendations of the head of a unit it is impracticable or not in the best interests of the public service to make an appointment from within the public service by competition, the Commissioner may, without competition, appoint the person from within the public service who, in the opinion of the Commissioner is best qualified. 1967 (1st) c. 3, s. 15.

16. (1) Where, in the opinion of the Commissioner, a suitable appointment cannot be made from within the public service, the appointment may be made in accordance with this Ordinance from among persons outside the public service who are residents in the Territory. When appointments from outside public service authorized

(2) Where, in the opinion of the Commissioner, a suitable appointment cannot be made from among persons outside the public service who are resident in the Territory, the appointment may be made in accordance with this Ordinance from among persons who are not resident in the Territory. 1967 (1st) c. 3, s. 16. When appointments from among non-residents authorized

17. (1) The Commissioner may in relation to any position or class prescribe qualifications as to age, residence or any other matters that in his opinion are necessary or desirable having regard to the nature of the duties to be performed, but in so doing the Commissioner shall not discriminate against any person by reason of race, sex, national origin, colour or religion. 1967(1st) c. 3, s. 17; 1970(2nd) c. 8, s. 6. Qualifications

TERMS AND CONDITIONS OF EMPLOYMENT

TENURE

18. (1) Unless some other period of employment is specified, the tenure of office of an employee is, subject to the provisions of this Ordinance and the regulations made thereunder, for an indeterminate period. 1967 (1st) c. 3, s. 18. Indeterminate tenure of office

19. (1) An employee who is appointed to a position in the public service for a specified period ceases to be employed at the expiration of that period. 1967 (1st) c. 3, s. 19. Specified tenure of office

20. (1) An employee shall be considered to be on probation for a period of six months from the date of his appointment. Probationary period

(2) A head of a unit may, with the approval of the Commissioner extend the probationary period of an employee for a further period not exceeding six months. Extension of probationary period

(3) Notwithstanding subsections (1) and (2) the Commissioner may abridge or abolish the probationary period of any employee or class of employees. 1967 (1st) c. 3, s. 20; 1970 (2nd) c. 8, s. 7.

21. (1) The Commissioner may, on the recommendation of the head of a unit, at any time during the probationary period of an employee, reject that employee for cause. Rejection

(2) An employee who has been rejected under this section ceases to be an employee. 1967 (1st) c. 3, s. 21. Effect of rejection

Resignation **22.** (1) An employee may resign his position in the public service by giving to the Commissioner notice in writing of his intention to resign his position.

Acceptance and withdrawal (2) A resignation is completed when it is accepted in writing by the Commissioner, but it may, by an appropriate notice in writing to the Commissioner and with the approval of the Commissioner, be withdrawn at any time before the effective date thereof, if no person has been appointed or selected for appointment to the position to be vacated by the resignation. 1967(1st) c. 3, s. 22.

Abandonment **23.** (1) An employee who is absent from duty without leave for a period of one week may by an appropriate instrument in writing be declared by the Commissioner to have abandoned his position, and thereupon the position becomes vacant and the employee ceases to be an employee. 1967 (1st) c. 3, s. 23.

INCOMPETENCE AND INCAPACITY

Suspension **24.** (1) Where a unit head is of the opinion that an employee is
(a) incompetent in performing the duties of the position he occupies;
(b) incapable of performing those duties; or
(c) guilty of misconduct;
the unit head may suspend the employee.

Report (2) When a unit head other than a department head suspends an employee pursuant to subsection (1) he shall forthwith make a report in writing together with the reasons for the suspension, to his department head.

Two months limit (3) A suspension of an employee pursuant to subsection (1) shall not be for a greater period than two months. 1967 (1st) c. 3, s. 24; 1970 (2nd) c. 8, s. 8.

Investigation **25.** (1) Where a department head suspends an employee or receives a report mentioned in section 24, the department head shall investigate the matter and shall give the employee an opportunity to make representations orally or in writing either personally or by counsel or agent.

Disposition (2) If the department head is satisfied as a result of the investigation that the employee is incompetent or incapable of performing the duties of the position he occupies or is guilty of misconduct he may
(a) confirm the suspension;
(b) increase the period of suspension to a period not exceeding six months; or

(c) recommend that the employee be demoted or dismissed.

(3) If, as a result of the investigation the department head is satisfied that the employee is not incompetent or incapable of performing the duties of the position he occupies or is not guilty of misconduct, he shall terminate the suspension forthwith and the employee shall be deemed not to have been suspended. Exoneration

(4) Notwithstanding subsections (1) and (2) where the department head is satisfied that the incompetence, incapacity or misconduct of the employee is of a trivial nature he may terminate the period of suspension, and reprimand the employee in writing or take other appropriate action. Reprimand

(5) Within two weeks of notification of the decision of the department head, the employee may submit an appeal to the Commissioner pursuant to the regulations regarding the decision of the department head. Appeal

(6) Where an appeal has been submitted under subsection (5) the Commissioner may allow the appeal, dismiss the appeal or may vary the decision of the department head. Powers on appeal

(7) An employee may appeal the decision of the Commissioner under subsection (6) to an adjudicator appointed by the Chairman of the Yukon Public Service Staff Relations Board and for these purposes the provisions of the *Yukon Public Service Staff Relations Ordinance* shall apply *mutatis mutandis* to the Chairman and adjudicator, and the decision of the adjudicator thereon shall be final and binding. Further appeal

(8) On receipt of the decision of the adjudicator the Commissioner shall issue any order or take any action necessary to implement the decision of the adjudicator. 1967 (1st) c. 3, s. 25; 1970 (2nd) c. 8, s. 8. Disposition

26. (1) If no appeal is submitted with respect to a recommendation of the department head, the Commissioner may take any action with regard to the recommendation as he sees fit. When no appeal

(2) If the recommendation under this section recommends the release of the employee, the Commissioner may release the employee and the employee thereupon ceases to be an employee with effect from the date fixed in the order. 1967 (1st) c. 3, s. 26; 1970 (2nd) c. 8, s. 8. Release

27. (1) An employee is not entitled to any remuneration in respect of any period during which he is under suspension. Pay suspended

(2) Notwithstanding subsection (1), an allowance not exceeding fifty percent of his base pay may be made to an

employee who is under suspension. 1967 (1st) c. 3, s. 27; 1970 (2nd) c. 8, s. 8.

POLITICAL PARTISANSHIP

Political partisanship

28. (1) No unit head and, except as authorized under this section, no employee, shall

(a) engage in work for, on behalf of or against a candidate for election as a member of the House of Commons, a member of the legislature of a province or a member of the Council of the Yukon Territory or the Northwest Territories, or engage in work for, on behalf of or against a political party; or

(b) be a candidate for election as a member described in paragraph (a).

Excepted activities

(2) A person does not contravene subsection (1) by reason only of his attending a political meeting or contributing money for the funds of a candidate for election as a member described in paragraph (1)(a) or money for the funds of a political party.

Leave of absence

(3) Upon application made to the Commissioner by an employee the Commissioner may, if he is of the opinion that the usefulness to the public service of the employee in the position he then occupies would not be impaired by reason of his having been a candidate for election as a member described in paragraph (1)(a), grant to the employee leave of absence without pay to seek nomination as a candidate and to be a candidate for election as a member, for a period ending on the day on which the results of the election are officially declared or on an earlier day as may be requested by the employee if he has ceased to be a candidate.

Effect of election

(4) An employee who is declared elected as a member described in paragraph (1)(a) thereupon ceases to be an employee.

Inquiry

(5) Where an allegation is made to the Commissioner by a person who is or has been a candidate for election as a member described in paragraph (1)(a), that a unit head or employee has contravened subsection (1), the allegation shall be referred to a board established by the Commissioner to conduct an inquiry at which the person making the allegation and the unit head or employee concerned, or their representatives, are given an opportunity of being heard, and upon being notified of the board's decision on the inquiry the Commissioner may, if the board decides the unit head or employee has contravened subsection (1), dismiss him. 1967 (1st) c. 3, s. 28.

LAY-OFFS

29. (1) Where the duties of a position held by an employee are no longer required to be performed, the Commissioner may lay-off the employee and he thereupon ceases to be an employee. Laying off employees

(2) Notwithstanding anything in this Ordinance, the Commissioner may, without competition, appoint a lay-off to any position in the public service for which he is qualified having the same or lower maximum rates of pay as the position held by him at the time he was laid off. Reappointment

(3) A lay-off is entitled for a period of twelve months, or such longer period not exceeding two years, as the Commissioner may determine, after he was laid off to enter any competition for which he would have been eligible had he not been laid off. Competitions

(4) Notwithstanding anything in this Ordinance, a lay-off shall be considered for appointment to a position for which he is qualified, having the same or lower maximum rates of pay as the position held by him at the time he was laid off, in priority to all other qualified persons and in priority to all other persons who became lay-offs at an earlier time. To be considered for appointment

(5) A person ceases to be a lay-off if he is not appointed to a position in the public service within two years from the date on which he became a lay-off or if he is appointed to or if, except for reasons that in the opinion of the Commissioner are sufficient, he declines an appointment to a position in the public service with the same or higher maximum rates of pay as the position held by him at the time he was laid off. 1967 (1st) c. 3, s. 29. Termination of lay-off status

30. (1) Where two or more persons employed in positions of the same class or class series in any unit of the public service are to be laid off, or where one person is to be laid off and there are other persons holding positions of the same class or class series in the same unit, the Commissioner shall, after considering such material and conducting such examinations, tests, interviews, and investigations as he considers necessary, list the persons holding positions of the same class or class series in order of their merit, and those persons shall be laid off in order beginning with the person lowest on the list. 1967 (1st) c. 3, s. 30 ; 1970 (2nd) c. 8, s. 9. Order of laying off

HOLIDAYS

31. (1) The following days are holidays for the public service: Holidays

- (a) New Year's Day,

- (b) Good Friday,
- (c) Easter Monday,
- (d) Victoria Day,
- (e) the birthday or the day fixed by proclamation of the Governor in Council for the celebration of the birthday of the Sovereign,
- (f) Dominion Day,
- (g) Discovery Day,
- (h) Labour Day,
- (i) Remembrance Day,
- (j) Christmas Day,
- (k) Boxing Day, and
- (l) any day appointed by proclamation of the Governor in Council or the Commissioner to be observed as a day of general feast or thanksgiving or as a holiday. 1967 (1st) c. 3, s. 31.

PAY

Rate of pay on appointment **32. (1)** Subject to this section, the rate of pay of a person appointed to a position in the public service shall be the minimum rate for the class of that position.

Appointment at higher than minimum rate (2) The Commissioner may make an appointment to a position or to positions in a class at a rate of pay higher than the minimum rate applicable to that position or class.

(3) Subject to this Ordinance, an employee is entitled to be paid for services rendered the remuneration applicable to the position held by him. 1967 (1st) c. 3, s. 32; 1970 (2nd) c. 8, s. 10.

Oath of office **33. (1)** Every employee shall, before any remuneration is paid to him, take and subscribe the oath or affirmation set out in Schedule I. 1967 (1st) c. 3, s. 33.

GENERAL

REGULATIONS

Regulations **34. (1)** The Commissioner may make regulations for carrying out the provisions of this Ordinance and without restricting the generality of the foregoing, may make regulations

- (a) providing for the granting of leave of absence, with or without pay;
- (b) providing for the grant to an employee of retiring leave, that is leave of absence with pay terminating with his retirement from the public service or for the payment of a gratuity in lieu thereof;

- (c) requiring employees by reason of special circumstances or the nature of their duties to perform the duties of their position on a holiday, but any employee who is so required to perform the duties of his position on a holiday shall be granted another day of leave with pay or shall be paid compensation for overtime in lieu thereof;
- (d) regulating hours of work, attendance, and other matters relating to the performance of duties;
- (e) authorizing the imposition of minor pecuniary penalties on employees for failure to comply with attendance requirements;
- (f) authorizing the payment of compensation for overtime as defined by regulation to an employee or his personal representative;
- (g) prescribing the method of determining the rate of pay upon appointment where a lay-off or a person holding a position in the public service of Canada is appointed to a position in the public service;
- (h) prescribing the effective date of an appointment to the public service and prescribing what shall constitute a resignation by an employee;
- (i) prescribing how positions or employees wholly or partly excluded under section 35 shall be dealt with;
- (j) providing for the payment of acting pay where an employee is required to perform for a temporary period the duties of a higher position and prescribing the amount of or method of determining acting pay and the circumstances and conditions under which it may be paid;
- (k) providing for the selection, appointment, conditions of employment and remuneration of employees performing duties of a casual, part-time or seasonal nature notwithstanding anything in this Ordinance;
- (l) prescribing what shall constitute continuity of employment for the purposes of this Ordinance;
- (m) regulating the holding of offices or positions outside the public service by persons employed in the public service;
- (n) prescribing procedure on appeals, and prescribing the procedure for dealing with grievances, as defined by the regulations;
- (o) authorizing the Commissioner to revoke an appointment where he finds any irregularity in the appointment; and
- (p) for any purpose for which regulations are authorized to be made under this Ordinance. 1967 (1st) c. 3, s. 34; 1970 (2nd) c. 8, s. 11.

Exclusion of
persons and
positions

35. (1) In any case where the Commissioner decides that it is not practicable nor in the public interest to apply this Ordinance or any provisions thereof to any position or employee, the Commissioner may exclude that position or employee in whole or in part from the operation of this Ordinance, and the Commissioner may re-apply any of the provisions of this Ordinance to any position or employee so excluded. 1967 (1st) c. 3, s. 35.

APPLICATION

Application

36. (1) This Ordinance applies to all employees whether appointed before or after the coming into force of this Ordinance.

Reference to
period of
employment

(2) A reference in any of the provisions of this Ordinance to a period of employment shall be construed as including employment before as well as after the coming into force of this Ordinance. 1967 (1st) c. 3, s. 36.

SCHEDULE I

OATH OF OFFICE AND SECRECY

I. (A.B.), solemnly and sincerely swear that I will faithfully and honestly fulfil the duties that devolve upon me by reason of my employment in the public service of the Yukon Territory and that I will not, without due authority in that behalf, disclose or make known any matter that comes to my knowledge by reason of such employment. (When an oath is taken add "So help me God").

1967 (1st) c. 3, Sched. A.

CHAPTER P-11

PUBLIC SERVICE STAFF RELATIONS ORDINANCE

SHORT TITLE

1. (1) This Ordinance may be cited as the *Public Service Staff Relations Ordinance*. 1970 (2nd) c. 1, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“**adjudicator**” means an adjudicator appointed under section 80 and includes, where the context permits, an adjudicator named in a collective agreement for the purposes of that agreement; “adjudicator”

“**arbitral award**” means an award made by an arbitrator in respect of a dispute; “arbitral award”

“**arbitrator**” means an arbitrator appointed under section 55; “arbitrator”

“**bargaining agent**” means an employee organization “bargaining agent”
 (i) that has been certified by the Board as bargaining agent for a bargaining unit, and
 (ii) the certification of which has not been revoked;

“**bargaining unit**” means a group of two or more employees that is determined, in accordance with this Ordinance, to constitute a unit of employees appropriate for collective bargaining; “bargaining unit”

“**Board**” means the Yukon Public Service Staff Relations Board established under section 7; “Board”

“**Chairman**” means the Chairman of the Board; “Chairman”

“**collective agreement**” means an agreement in writing entered into under this Ordinance between the employer on the one hand, and a bargaining agent on the other hand, containing provisions respecting terms and conditions of employment and related matters; “collective agreement”

“**conciliation board**” means a board established under section 67 for the investigation and conciliation of a dispute; “conciliation board”

- "conciator" "conciator" means a person appointed by the Chairman under section 44 to assist the parties to collective bargaining in reaching agreement ;
- "designated employee" "designated employee" means an employee who is agreed by the parties to collective bargaining or determined by the Board pursuant to section 43 to be a designated employee within the meaning of that section ;
- "dispute" "dispute" means a dispute or difference arising in connection with the conclusion, renewal or revision of a collective agreement, in respect of which arbitration is requested pursuant to section 53 or in respect of which the establishment of a conciliation board may be requested pursuant to section 66 ;
- "employee" "employee" means a person employed in the public service other than
- (a) a person appointed by the Commissioner under an Ordinance to a statutory position described in that Ordinance,
 - (b) a person locally engaged outside the Territory,
 - (c) a person whose compensation for the performance of the regular duties of his position or office consists of fees of office, or is related to the revenue of the office in which he is employed,
 - (d) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work,
 - (e) a person employed on a casual or temporary basis, unless he has been so employed for a period of six months or more,
 - (f) a person employed by or under the Board, or
 - (g) a person employed in a managerial or confidential capacity,
- and for the purpose of this paragraph, a person does not cease to be employed in the public service by reason only of his ceasing to work as a result of a lawful strike or by reason only of his discharge contrary to this or any other Ordinance ;
- "employee organization" "employee organization" means an organization of employees, the purposes of which include the regulation of relations between the employer and his employees for the purposes of this Ordinance, and includes unless the context otherwise requires, a council of employee organizations ;
- "employer" "employer" means the Commissioner ;

“grievance” means a complaint in writing presented in accordance with this Ordinance by a bargaining agent on behalf of one or more of its members or by an employee on his own behalf or on behalf of himself and one or more other employees, and includes a reference to adjudication under section 85 of this Ordinance, except that for the purposes of any of the provisions of this Ordinance respecting grievances, a reference to an “employee” includes a person who would be an employee but for the fact that he is a person employed in a managerial or confidential capacity;

“grievance”

“person employed in a managerial or confidential capacity” means any person who

“person employed in a managerial or confidential capacity”

(a) is a unit head as defined in the *Public Service Ordinance*, or

any other person employed in the Public Service who is identified in prescribed manner by the employer, or by the Board on objection thereto by the bargaining agent, to be a person

(b) who has executive duties and responsibilities in relation to the development and administration of government programs,

(c) whose duties include those of a personnel administrator or who has duties that cause him to be directly involved in the process of collective bargaining on behalf of the employer,

(d) who is required by reason of his duties and responsibilities to deal formally on behalf of the employer with a grievance presented in accordance with the grievance process provided for in this Ordinance,

(e) who is employed in a position confidential to any person described in subparagraphs (a), (b), (c), or (d), or

(f) who is not otherwise described in subparagraphs (b), (c), (d) or (e), but who in the opinion of the Board should not be included in a bargaining unit by reason of his duties and responsibilities to the employer;

“prescribed” means prescribed by regulations of the Commissioner on the recommendation of the Board;

“prescribed”

“process for resolution of a dispute” means either of the following processes for the resolution of a dispute namely;

“process for resolution of a dispute”

(a) by the referral of the dispute to arbitration, or

(b) by the referral thereof to a conciliation board;

“remuneration” includes a *per diem* or other allowance for the performance of the duties of a position or office;

“remuneration”

"strike" "strike" includes a cessation of work or a refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding or a slowdown or other concerted activity on the part of employees designed to restrict or limit output;

"Vice-Chairman" "Vice-Chairman" means the Vice-Chairman of the Board. 1970 (2nd) c. 1, s. 2.

3. (1) Nothing in this Ordinance shall be construed to affect the right or authority of the employer

- (a) to manage and direct the members of the public service;
- (b) to determine the organization of the public service and to assign duties to and classify positions therein;
- (c) to recruit and make appointments to the public service;
- (d) to transfer and promote within the public service; and
- (e) to lay off, demote, or discipline an employee.

(2) Subject to paragraph 88(3)(a), nothing in this Ordinance affects the right of the employer to engage private contractors or contract work out for any purpose whatsoever. 1970 (2nd) c. 1, s. 3.

4. (1) No person who is employed in a managerial or confidential capacity shall be a member of an employee organization.

Employer participation in employee organization (2) No person who is employed in a managerial or confidential capacity, whether or not he is acting on behalf of the employer, shall participate in or interfere with the formation or administration of an employee organization or the representation of employees by such an organization.

Discrimination against members and intimidation (3) No person shall

- (a) refuse to employ or to continue to employ any person, or otherwise discriminate against any person in regard to employment or any term or condition of employment because the person is a member of an employee organization or was or is exercising any right under this Ordinance;
- (b) impose any condition on an appointment or in a contract of employment or propose the imposition of any condition on an appointment or in a contract of employment that seeks to restrain an employee or a person seeking employment from becoming a member

of an employee organization or exercising any right under this Ordinance; or

(c) seek by intimidation, by threat of dismissal, or by any other kind of threat, or by the imposition of a pecuniary or any other penalty or by any other means to compel an employee

(i) to become, refrain from becoming or cease to be, or

(ii) except as otherwise provided in a collective agreement, to continue to be,

a member of an employee organization, or to refrain from exercising any other right under this Ordinance;

but no person shall be deemed to have contravened this subsection by reason of any act or thing done or omitted in relation to a person employed, or proposed to be employed, in a managerial or confidential capacity.

(4) No moneys deducted from an employee's salary for payment to an employee organization or paid to an employee organization by an employee of the public service shall be used directly or indirectly on behalf of any political party or on behalf of any candidate for political office.

(5) The Commissioner shall not make any deduction from an employee's salary for payment to an employee organization unless the employee organization delivers to the Commissioner a statutory declaration made by a duly authorized officer that the employee organization is complying and will continue to comply with subsection (4). 1970 (2nd) c. 1, s. 4.

5. (1) Except in accordance with this Ordinance or any regulation, collective agreement or arbitral award, no person employed in a managerial or confidential capacity, whether or not he acts on behalf of the employer, shall discriminate against an employee organization.

Discrimination against employee organization

(2) Nothing in subsection (1) shall be construed to prevent a person employed in a managerial or confidential capacity from receiving representations from, or holding discussions with, the representatives of any employee organization. 1970 (2nd) c. 1, s. 5.

Saving provision

6. (1) Except with the consent of the employer, no officer or representative of an employee organization shall attempt, on the employer's premises during the working hours of an employee, to persuade the employee to become or refrain from becoming or to continue to be or to cease to be a member of an employee organization. 1970 (2nd) c. 1, s. 6.

Soliciting membership during working hours

7. (1) There shall be a Board to be called the Yukon Public Service Staff Relations Board consisting of a Chairman and, if the Commissioner deems it advisable, a Vice-Chairman, and not less than two nor more than eight members to be appointed as being representative in equal numbers of the interests of employees and of the interests of the employer respectively.

(2) The Chairman, the Vice-Chairman and the other members of the Board shall be appointed by the Commissioner to hold office during good behaviour for such period not exceeding five years as may be determined by the Commissioner.

(3) A retiring Chairman, Vice-Chairman or other member may be re-appointed to the Board in the same or another capacity.

(4) Appointments to the Board made by the Commissioner under this Ordinance, or appointments made by the Commissioner on the recommendation of the Chairman or by the Chairman shall be deemed not to be made by Her Majesty in right of Canada as represented by the Treasury Board or by the Governor in Council. 1970 (2nd) c. 1, s. 7.

8. (1) If the Chairman is absent or unable to act, or the office of the Chairman is vacant

(a) the Vice-Chairman, if one has been appointed, shall act as Chairman, or

(b) if no Vice-Chairman has been appointed, the Commissioner may appoint a person to act as Chairman,

and while so acting the Vice-Chairman or the person appointed to act as Chairman, as the case may be, has and may exercise all of the powers and functions of the Chairman under this Ordinance. 1970 (2nd) c. 1, s. 8.

QUALIFICATIONS FOR MEMBERSHIP

Qualification 9. (1) A person is not eligible to hold office as a member of the Board if

(a) he holds any other office or employment under the employer, or

(b) he is a member of or holds an office or employment under an employee organization that is a bargaining agent.

Exceptions (2) Where a member ceases to be a member of the Board for any reason he may, notwithstanding anything in this Ordinance, carry out and complete any duties or respon-

sibilities that he would otherwise have had if he had not ceased to be a member in connection with any matter

- (a) that came before the Board while he was still a member thereof, and
- (b) in respect of which there was any proceeding in which he participated as a member. 1970 (2nd) c. 1, s. 9.

10. (1) The Commissioner shall fix

- (a) the remuneration to be paid to the members of the Board and any other person appointed under the Ordinance, and
- (b) travelling and living expenses to be paid to the members of the Board or any other person appointed under this Ordinance in connection with the performance of their duties when absent from their ordinary place of residence. 1970 (2nd) c. 1, s. 10.

11. (1) The Board may meet at such times and places, whether within or without the Territory, as it considers necessary or desirable for the proper conduct of its business. 1970 (2nd) c. 1, s. 11.

12. (1) At any meeting of the Board for the conduct of its business, at least the following members, namely:

Meetings for
conduct of
business

- (a) the Chairman, or the Vice-Chairman;
- (b) one member who has been appointed as being representative of the interests of employees; and
- (c) one member who has been appointed as being representative of the interests of the employer,

shall be present.

(2) For the purpose of facilitating the hearing or determination of any matter by the Board, the Chairman may direct that the powers, duties and functions of the Board under this Ordinance shall be exercised and performed by a division of the Board, to consist of

Divisions of the
Board

- (a) either the Chairman or the Vice-Chairman; and
- (b) at least two other members to be designated by the Chairman in such a manner as to ensure that the number of members appointed as being representative of the interests of employees equals the number of members appointed as being representative of the interests of the employer.

(3) A decision of a majority of those present at any meeting of the Board, or of a division thereof, is a decision of the Board or the division thereof, as the case may be, except that

Decision of
majority

where both the Chairman and the Vice-Chairman are present at any meeting of the Board only the Chairman may vote. 1970 (2nd) c. 1, s. 12.

13. (1) The Commissioner, on the recommendation of the Board, may appoint such other persons as the Board deems necessary for the performance of its duties and fix their remuneration.

(2) The Commissioner may fix the remuneration of conciliators and other experts or persons having technical or special knowledge to assist the Board and the Chairman in any advisory capacity.

(3) The Commissioner may delegate to the Chairman his powers under subsection (1) either generally or in specific cases. 1970 (2nd) c. 1, s. 13.

Powers and duties of the Board

14. (1) The Board shall administer this Ordinance and shall exercise such powers and perform such duties as are conferred or imposed upon it by, or as may be incidental to the attainment of the objects of, this Ordinance including, without restricting the generality of the foregoing, the making of orders requiring compliance with the provisions of this Ordinance with any regulation made hereunder or with any decision made in respect of a matter coming before it. 1970 (2nd) c. 1, s. 4.

15. (1) The Commissioner may, on the recommendation of the Board, make regulations of general application respecting,

Authority of Board to make regulations

- (a) the manner in which persons shall be designated by the employer, or by the Board on objection thereto by a bargaining agent, to be persons employed in a managerial or confidential capacity.
- (b) the determination of units of employees appropriate for collective bargaining;
- (c) the certification of bargaining agents for bargaining units;
- (d) the hearing or determination of any matter relating to or arising out of the revocation of certification of a bargaining agent, including the rights and privileges that have accrued to and are retained by any employee notwithstanding such revocation;
- (e) the rights, privileges and duties that are acquired or retained by an employee organization in respect of a bargaining unit or any employee included therein

where there is a merger, amalgamation or transfer of jurisdiction between two or more such organizations;

- (f) the establishment of rules of procedure for hearings under this Ordinance;
- (g) the specification of the time within which the persons to whom notices and other documents shall be sent and when such notices shall be deemed to have been given and received;
- (h) the determination of the form in which, and the time as of which, evidence
 - (i) as to membership of employees in an employee organization,
 - (ii) of objection by employees to certification of an employee organization, or
 - (iii) of signification by employees that they no longer wish to be represented by an employee organization

shall be presented to the Board upon an application for certification of or for revocation of certification of a bargaining agent, and the circumstances in which evidence as to membership of employees in an employee organization may be received by the Board as evidence that such employees wish that employee organization to represent them as their bargaining agent,

- (i) the hearing of complaints under section 16,
- (j) the authority vested in a council of employee organizations that shall be considered appropriate authority within the meaning of paragraph 22(2)(b), and
- (k) such other matters and things as may be incidental or conducive to the objects and purposes of the Board, the exercise of its powers and attainment of the objects of this Ordinance. 1970 (2nd) c. 1, s. 15.

16. (1) The Board shall examine and enquire into any complaint made to it that the employer, or any person acting on his behalf, or that any employee organization, or any person acting on its behalf, has failed

- (a) to observe any prohibition or to give effect to any provision contained in this Ordinance or the regulations;
- (b) to give effect to any provision of an arbitral award;
- (c) to give effect to a decision of an adjudicator with respect to grievance; or
- (d) to comply with any regulation made by the Commissioner pursuant to section 86.

Order of Board directing compliance

(2) Where under subsection (1) the Board determines that any person has failed to observe any prohibition, to give effect to any provision or decision or to comply with any regulation as described in subsection (1), it may make an order, addressed to that person, directing him to observe the prohibition, give effect to the provision or decision or comply with the regulation, as the case may be, or take such action as may be required in that behalf within such specified period as the Board may consider appropriate, and

(a) where that person has acted or purported to act on behalf of the employer, it shall direct its order as well to the Director of Personnel as defined in the *Public Service Ordinance*, and to the head of the appropriate department, and

(b) where that person has acted or purported to act on behalf of an employee organization, it shall direct its order as well to the chief officer of that employee organization. 1970 (2nd) c. 1, s. 16.

Where order not complied with

17. (1) Where any order made under section 16 directs some action to be taken and is not complied with within the period specified in the order for the taking of such action, the Board shall forward to the Commissioner, a report of the circumstances and all documents relevant thereto, and the copy of the order, the report and the relevant documents shall be laid by the Commissioner before the Territorial Council within fifteen days after receipt thereof by him or, if the Territorial Council is not then sitting, on any of the first fifteen days next thereafter that the Territorial Council is sitting. 1970 (2nd) c. 1, s. 17.

18. (1) The Board has, in relation to the hearing and determination of any matter which the Board may hear and determine under the Ordinance or the regulations under this Ordinance, power

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Board deems requisite to the full investigation and consideration of matters within its jurisdiction in the same manner and to the same extent as a judge of the Court;

(b) to administer oaths and affirmations;

(c) to receive and accept such evidence and information on oath, affidavit or otherwise as in its discretion it sees fit, whether admissible in a court of law or not and, without limiting the generality of the foregoing,

the Board may refuse to accept any evidence that is not presented in the form and at the time prescribed or ordered;

- (d) to require the employer to post and keep posted in appropriate places any notices that the Board deems necessary to bring to the attention of any employees any matter or proceeding before the Board;
- (e) subject to such limitations as the Commissioner in the interests of defence or security may prescribe, to enter any premises of the employer where work is being or has been done by employees and to inspect and view any work, material, machinery, appliances or articles therein and interrogate any person respecting any matter;
- (f) to enter upon the employer's premises for the purpose of conducting representation votes during working hours; and
- (g) to authorize any person to do anything that the Board may do under paragraphs (b) to (f) and to report to the Board thereon. 1970 (2nd) c. 1, s. 18.

19. (1) Where under this Ordinance the Board may make or issue any order or direction, prescribe any term or condition or do any other thing in relation to any person, the Board may do so, either generally or in any particular case or class of cases. 1970 (2nd) c. 1, s. 19.

Application of orders

20. (1) The Board may review, rescind, amend, alter or vary any decision or order made by it, or may rehear any application before making an order in respect thereof, but any rights acquired by virtue of any decision or order that is so reviewed, rescinded, amended, altered or varied shall not be altered or extinguished with effect from a day earlier than the day on which such review, rescission, amendment, alteration or variation is made. 1970 (2nd) c. 1, s. 20.

Review or amendment of orders

21. (1) An employee organization seeking to be certified as bargaining agent for a group of employees that it considers constitutes a unit of employees appropriate for collective bargaining may, subject to section 24 apply in the manner prescribed to the Board for certification as bargaining agent for the proposed bargaining unit. 1970 (2nd) c. 1, s. 21.

Application by employee organization

22. (1) Where two or more employee organizations have come together to form a council of employee organizations, the council so formed may, subject to section 24 apply in the

Application by council of organizations

manner prescribed to the Board for certification as described in section 21.

Requirements and conditions for certification of council

(2) The Board may certify a council of employee organizations as bargaining agent for a bargaining unit where the Board is satisfied that

- (a) the requirements for certification established by this Ordinance are met, and
- (b) each of the employee organizations forming the council has vested appropriate authority in the council to enable it to discharge the duties and responsibilities of a bargaining agent. 1970 (2nd) c. 1, s. 22.

Council deemed to be employee organization

23. (1) A council of employee organizations shall, for all purposes of this Ordinance except subsection 22(2), be deemed to be an employee organization, and membership in any employee organization that is part of a council of employee organizations shall for the same purpose be deemed to be membership in the council. 1970 (2nd) c. 1, s. 23.

WHEN APPLICATION FOR CERTIFICATE MAY BE MADE

When agreement concluded for term of not more than two years

24. (1) Where a collective agreement or an arbitral award is in force and is for a term of not more than two years, an employee organization may apply to the Board for certification as bargaining agent for any of the employees in the bargaining unit to which the agreement or award applies only after the commencement of the last two months of its operation.

When agreement concluded for term of more than two years

(2) Where a collective agreement or an arbitral award is in force and is for a term of more than two years, an employee organization may apply to the Board for certification as bargaining agent for any of the employees in the bargaining unit to which the agreement or award applies only

- (a) after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation;
- (b) during the two-month period immediately preceding the end of each year that the agreement or award continues to operate after the second year of its operation; or
- (c) after the commencement of the last two months of its operation.

When agreement concluded for indefinite term

(3) Where a collective agreement referred to in subsection (1) or (2) provides that it will continue to operate after the term specified therein for a further term or successive terms if

either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the collective agreement, an employee organization may apply to the Board for certification as bargaining agent for any of the employees in the bargaining unit to whom the collective agreement applies at any time permitted by subsection (1) or (2), as the case may be, or during the two-month period immediately preceding the end of each year that the collective agreement continues to operate after the term specified therein. 1970 (2nd) c. 1, s. 24.

25. (1) Where an application for certification of an employee organization as bargaining agent for a proposed bargaining unit has been refused by the Board, the Board shall not certify the employee organization as bargaining agent for the same or substantially the same proposed bargaining unit until at least twelve months have elapsed from the day on which the Board last refused such certification, unless the Board is satisfied that the previous application was refused by reason only of a technical error or omission made in connection therewith. 1970 (2nd) c. 1, s. 25.

No certification where previous application refused within twelve months

26. (1) Where an employee organization has made application to the Board for certification as described in section 21 the Board shall determine the relevant group of employees that constitutes a unit appropriate for collective bargaining.

Determination of unit appropriate for collective bargaining

(2) For the purposes of this Ordinance, a unit of employees may be determined by the Board to constitute a unit appropriate for collective bargaining whether or not its composition is identical with the group of employees in respect of which application for certification was made. 1970 (2nd) c. 1, s. 26.

Composition of bargaining unit

27. (1) Where, at any time following the determination by the Board of a group of employees to constitute a unit appropriate for collective bargaining, any question arises as to whether any employee or class of employees is or is not included therein or is included in any other unit, the Board shall, on application by the employer or any employee organization affected, determine the question. 1970 (2nd) c. 1, s. 27.

Determination of membership in bargaining units

CERTIFICATION

28. (1) Where the Board

Certification of employee organization as bargaining unit

- (a) has received from an employee organization an application for certification as bargaining agent for a bargaining unit in accordance with this Ordinance;
- (b) has determined the group of employees that constitutes a unit appropriate for collective bargaining in accordance with section 26;
- (c) is satisfied that at the date the application was made a majority of employees in the bargaining unit wished the employee organization to represent them as their bargaining agent; and
- (d) is satisfied that the persons representing the employee organization in the making of the application have been duly authorized to make the application;

the Board shall, subject to this Ordinance, certify the employee organization making the application as bargaining agent for the employees in that bargaining unit. 1970 (2nd) c. 1, s. 28.

Powers of Board in relation to certification

29. (1) For the purpose of enabling the Board to discharge any obligation imposed by section 28 to satisfy itself as to the matters described in paragraphs (c) and (d) of that section, the Board may

- (a) examine, in accordance with any regulations in that behalf, such evidence as is submitted to it respecting membership of the employees in the proposed bargaining unit in the employee organization seeking certification;
- (b) make or cause to be made such examination of records or make such inquiries as it deems necessary; and
- (c) examine documents forming or relating to the constitution or articles of association of the employee organization seeking certification;

and, in its sole discretion, the Board may in any case for the purpose of satisfying itself that a majority of employees in the bargaining unit wish the employee organization to represent them as their bargaining agent, direct that a representation vote be taken among the employees in the bargaining unit.

Where representation vote to be taken

(2) Where under subsection (1) the Board directs that a representation vote be taken, the Board shall

- (a) determine the employees that are eligible to vote, and
- (b) make such arrangements and give such directions as to it appear requisite for the proper conduct of the representation vote including the preparation of ballots, the method of casting and counting ballots and

the custody and sealing of ballot boxes. 1970 (2nd) c. 1, s. 29.

30. (1) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization in the formation or administration of which there has been or is, in the opinion of the Board, participation by the employer or any person acting on behalf of the employer of such a nature as to impair its fitness to represent the interests of employees in the bargaining unit.

Where participation by employer in formation of employee organization

(2) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that

Where money received or paid for activities by political party

- (a) receives from any of its members who are employees;
- (b) handles or pays in its own name on behalf of members who are employees; or
- (c) requires as a condition of membership therein the payment by any of its members of;

any money for activities carried on by or on behalf of any political party.

(3) The Board shall not certify as bargaining agent for a bargaining unit, any employee organization that discriminates against any employee because of sex, race, national origin, colour or religion. 1970 (2nd) c. 1, s. 30.

Where discrimination by reason of race, etc.

EFFECT OF CERTIFICATION

31. (1) Where an employee organization is certified under this Ordinance as the bargaining agent for a bargaining unit,

Effect of certification

- (a) the employee organization has the exclusive right under this Ordinance;
 - (i) to bargain collectively on behalf of employees in the bargaining unit and to bind them by a collective agreement until its certification in respect of the bargaining unit is revoked, and
 - (ii) to represent, in accordance with this Ordinance, an employee in the presentation or reference to adjudication of a grievance relating to the interpretation or application of a collective agreement or arbitral award applying to the bargaining unit to which the employee belongs;
- (b) if another employee organization had been previously certified as bargaining agent in respect of employees in the bargaining unit, the certification of the previously certified bargaining agent is thereupon revoked in respect of such employees; and

- (c) if, at the time of certification, a collective agreement or arbitral award binding on the employees in the bargaining unit is in force, the employee organization shall be substituted as a party to the agreement or award in place of the bargaining agent that had been a party thereto and may, notwithstanding anything contained in the agreement or award, terminate the agreement or award, in so far as it applies to the employees in the bargaining unit, upon two months' notice to the employer given within one month from such certification.

Determination of questions as to rights of previous or new bargaining agent

(2) In any case where paragraphs (1)(b) and (c) applies, any question as to any right or duty of the previous bargaining agent or the new bargaining agent arising by reason of the application of that paragraph shall, on application by the employer or the previous or the new bargaining agent, be determined by the Board. 1970 (2nd) c. 1, s. 31.

REVOCATION OF CERTIFICATION ON APPLICATION

Application for declaration that employee organization no longer represents employees

32. (1) Where a collective agreement or an arbitral award is in force in respect of a bargaining unit, any person claiming to represent a majority of the employees in that bargaining unit may in accordance with subsection (2), apply to the Board for a declaration that the employee organization certified as bargaining agent for that bargaining unit no longer represents a majority of the employees therein.

When application may be made

- (2) An application under subsection (1) may be made
 - (a) where the collective agreement or arbitral award is for a term of not more than two years, only after the commencement of the last two months of its operation;
 - (b) where the collective agreement or arbitral award is for a term of more than two years, only after the commencement of the twenty-third month of its operation and before the commencement of the twenty-fifth month of its operation, during the two-month period immediately preceding the end of each year that it continues to operate after the second year of its operation, or after the commencement of the last two months of its operation, as the case may be; and
 - (c) where the collective agreement provides that it will continue to operate after the term specified therein for a further term or successive terms if either party fails to give to the other notice of termination or of its desire to bargain with a view to the renewal, with or without modifications, of the agreement or with a view

to the making of a new collective agreement, at any time permitted by paragraph (a) or (b), as the case may be, or during the two-month period immediately preceding the end of each year that the agreement continues to operate after the term specified therein.

(3) Upon an application under subsection (1), the Board in its sole discretion may direct the taking of a representation vote in order to determine whether a majority of the employees in the bargaining unit no longer wish to be represented by the employee organization that is the bargaining agent for that bargaining unit, and in relation to the taking of any such vote the provisions of subsection 29(2) apply.

Taking of representation vote

(4) After hearing any application under subsection (1), the Board shall revoke the certification of an employee organization as bargaining agent for a bargaining unit if it is satisfied that a majority of the employees in that bargaining unit no longer wish to be represented by the employee organization. 1970 (2nd) c. 1, s. 32.

Revocation of certification of employee organization

FOR ABANDONMENT OR OTHER CAUSE

33. (1) The Board shall revoke the certification of a bargaining agent where the bargaining agent advises the Board that it wishes to give up or abandon its certification or where the Board, upon application by the employer or any employee, determines that the bargaining agent has ceased to act as such.

Abandonment of certification

(2) Where the Board, upon application to the Board by the employer or any employee, determines that a bargaining agent would not, if it were an employee organization applying for certification, be certified by the Board by reason of a prohibition contained in section 30, the Board shall revoke the certification of the bargaining agent. 1970 (2nd) c. 1, s. 33.

Revocation where certification prohibited under s. 30

FOR FRAUD

34. (1) Where at any time the Board is satisfied that an employee organization has obtained certification as bargaining agent for a bargaining unit by fraud, the Board shall revoke the certification of such employee organization.

Certification obtained by fraud

(2) An employee organization the certification of which is revoked pursuant to subsection (1) is not entitled to claim any right or privilege flowing from such certification, and any collective agreement or arbitral award applying to the bargaining unit for which it was certified, to which such

Effect of revocation

employee organization was a party, is void. 1970 (2nd) c. 1, s. 34.

REVOCATION OF CERTIFICATION OF COUNCIL

Revocation of certification of council

35. (1) In addition to the circumstances in which, pursuant to section 32, 33 or 34, the certification of a bargaining agent may be revoked, where an employee organization that is a council of employee organizations has been certified as bargaining agent for a bargaining unit, the Board, on application to it by the employer or an employee organization that forms or has formed part of the council, shall revoke the certification of the council where it determines that, by reason of

(a) an alteration in the constituent membership of the council, or

(b) any other circumstance,

the council no longer meets the additional requirements for certification required for a council of employee organizations by subsection 22(2). 1970 (2nd) c. 1, s. 35.

EFFECT OF REVOCATION : RIGHTS OF EMPLOYEE ORGANIZATIONS AND EMPLOYEES

Effect of revocation where collective agreement or arbitral award in force

36. (1) Where, at the time the certification of a bargaining agent for a bargaining unit is revoked, a collective agreement or arbitral award binding on the employees in that bargaining unit is in force, except where another employee organization is substituted as a party to the agreement or award upon the revocation of such certification the agreement or award shall thereupon cease to be in effect. 1970 (2nd) c. 1, s. 36.

Determination of rights of bargaining agent by Board

37. (1) Where the certification of a bargaining agent for a bargaining unit is revoked by the Board pursuant to section 32, 33 or 34 any question as to any right or duty of that bargaining agent or of any new bargaining agent replacing it shall, on application by either organization, be determined by the Board. 1970 (2nd) c. 1, s. 37.

Direction as to manner in which rights acquired by employee are to be recognized

38. (1) Where the certification of a bargaining agent for a bargaining unit is revoked by the Board pursuant to section 32, 33, 34 or 35 and as a result thereof a collective agreement or arbitral award binding on the employees in the bargaining unit ceases to be in effect or a collective agreement or arbitral award applying to the bargaining unit is void, the Board shall, on application to it by or on behalf of any employee and in accordance with any regulations made by it in respect thereof, direct the manner in which any right acquired by, or

determined by the Board to have accrued to, an employee that is affected by the revocation is to be recognized and given effect to. 1970 (2nd) c. 1, s. 38.

SUCCESSOR RIGHTS

39. (1) Where, upon a merger or amalgamation of employee organizations or a transfer of jurisdiction among employee organizations otherwise than as a result of revocation of certification, any question arises concerning the rights, privileges and duties of an employee organization under this Ordinance or under a collective agreement or arbitral award in respect of a bargaining unit or an employee therein, the Board, on application to it by any employee organization affected, shall examine the question and may, in accordance with any regulations made by it in respect thereof, declare or determine what rights, privileges and duties if any have been acquired or are retained, as the case may be, by that employee organization. 1970 (2nd) c. 1, s. 39.

Mergers, amalgamations and transfers of jurisdiction

40. (1) Where the Board has certified an employee organization as bargaining agent for a bargaining unit,

Notice to bargain collectively

(a) the bargaining agent may, on behalf of the employees in the bargaining unit, by notice in writing require the employer to commence bargaining collectively, or

(b) the employer may by notice in writing require the bargaining agent to commence bargaining collectively,

with a view to the conclusion, renewal or revision of a collective agreement.

(2) Notice to bargain collectively may be given

When notice may be given

(a) where no collective agreement or arbitral award is in force and no request for arbitration has been made by either of the parties in accordance with this Ordinance at any time, and

(b) where a collective agreement or arbitral award is in force, within the period of two months before the agreement or award ceases to operate. 1970 (2nd) c. 1, s. 40.

WHERE NOTICE GIVEN

41. (1) Where notice to bargain collectively has been given, the bargaining agent and the officers designated to represent the employer shall, without delay, but in any case within twenty days after the notice was given or within such further time as the parties may agree, meet and commence to

Commencement of collective bargaining

bargain collectively in good faith and make every reasonable effort to conclude a collective agreement. 1970 (2nd) c. 1, s. 41.

Continuation in
force of terms
and conditions
of employment

42. (1) Where notice to bargain collectively has been given, any term or condition of employment applicable to the employees in the bargaining unit in respect of which the notice was given that may be embodied in a collective agreement and that was in force on the day the notice was given, shall remain in force and shall be observed by the employer, the bargaining agent for the bargaining unit and the employees in the bargaining unit, except as otherwise provided by any agreement in that behalf that may be entered into by the employer and the bargaining agent, until such time as

(a) in the case of a bargaining unit for which the process for resolution of a dispute is by the referral thereof to arbitration,

(i) a collective agreement has been entered into by the parties and no request for arbitration in respect of that term or condition of employment, or in respect of any term or condition of employment proposed to be substituted therefor, has been made in the manner and within the time prescribed therefor by this Ordinance, or

(ii) a request for arbitration in respect of that term or condition of employment, or in respect of any term or condition of employment proposed to be substituted therefor, has been made in accordance with this Ordinance and a collective agreement has been entered into or an arbitral award has been rendered in respect thereof, and

(b) in the case of a bargaining unit for which the process for resolution of a dispute is by the referral thereof to a conciliation board,

(i) a collective agreement has been entered into by the parties, or

(ii) a conciliation board has been established in accordance with this Ordinance and fourteen days have elapsed from the receipt by the Chairman of the report of the conciliation board. 1970 (2nd) c. 1, s. 42.

43. (1) Within twenty days after notice to bargain collectively is given by either of the parties to collective bargaining, or within such further time as the Board may direct the employer shall furnish to the Board and the bargaining agent for the relevant bargaining unit a statement in writing of the employees or classes of employees in the bargaining

unit (hereinafter in this Ordinance referred to as "designated employees") whose duties in the opinion of the employer consist in whole or in part of duties the performance of which at any particular time or after any specified period of time is or will be necessary in the interest of the safety or security of the public, or public buildings.

(2) If no objection to the statement referred to in subsection (1) is filed with the Board by the bargaining agent within such time after the receipt thereof by the bargaining agent as the Board may prescribe, such statement shall be taken to be a statement of the employees or classes of employees in the bargaining unit who are agreed by the parties to be designated employees, but where an objection to such statement is filed with the Board by the bargaining agent within the time so prescribed, the Board, after considering the objection and affording each of the parties an opportunity to make representations, shall determine which of the employees or classes of employees in the bargaining unit are designated employees.

Agreement or objection

(3) A determination made by the Board pursuant to subsection (2) is final and conclusive for all purposes of this Ordinance and shall be communicated in writing by the Chairman to the parties as soon as possible after the making thereof.

Determination to be communicated to parties

(4) Within such time and in such manner as the Board may prescribe, all employees in a bargaining unit who are agreed by the parties or determined by the Board pursuant to this section to be designated employees shall be so informed by the Board. 1970 (2nd) c. 1, s. 43.

Employees to be informed

CONCILIATION

44. (1) Where the employer or a bargaining agent advises the Board by notice in writing of the inability of the parties to reach agreement on any term or condition of employment that may be embodied in a collective agreement and that it desires the assistance of a conciliator in reaching agreement, the Chairman may appoint a conciliator who shall, forthwith after his appointment, confer with the parties and endeavour to assist them in reaching agreement. 1970 (2nd) c. 1, s. 44.

Request for conciliation

45. (1) A conciliator shall, within fourteen days from the date of his appointment or within such longer period as the Chairman may determine, report his success or failure to the Chairman. 1970 (2nd) c. 1, s. 45.

Report of conciliator

COLLECTIVE AGREEMENTS :

AUTHORITY TO ENTER INTO AGREEMENT

Authority to enter into collective agreement

46. (1) The Commissioner may, in such manner as may be provided for by any rules or procedures determined by him pursuant to the *Financial Administration Ordinance*, enter into a collective agreement with the bargaining agent for a bargaining unit applicable to employees in that bargaining unit. 1970 (2nd) c. 1, s. 46.

PROVISIONS OF COLLECTIVE AGREEMENT

Time within which agreement to be implemented

47. (1) The provisions of a collective agreement shall, subject to the appropriation by or under the authority of the Territorial Council of any moneys that may be required by the employer therefor, be implemented by the parties,

- (a) where a period within which the collective agreement is to be implemented is specified in the collective agreement, within that period, and
- (b) where no period for implementation is so specified
 - (i) within a period of sixty days from the date of its execution, or
 - (ii) within such longer period as may, on application by either party to the agreement, appear reasonable to the Board.

No term or condition to be included requiring legislative implementation

(2) No collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or condition of employment or the establishment of any new term or condition of employment,

- (a) the alteration or elimination of which or the establishment of which, as the case may be, would require or have the effect of requiring the enactment or amendment of any legislation by the Territorial Council except for the purpose of appropriating moneys required for its implementation, or
- (b) that has been or may be as the case may be, established pursuant to any enactment of the Territorial Council or Parliament of Canada except the *Public Service Ordinance*. 1970 (2nd) c. 1, s. 47.

DURATION AND EFFECT

When agreement effective

48. (1) A collective agreement has effect in respect of a bargaining unit on and from,

- (a) where an effective date is specified, that day, and

- (b) where no effective date is specified, the first day of the month next following the month in which the agreement is executed.

(2) Where a collective agreement

- (a) contains no provision as to its term, or
- (b) is for a term of less than one year,

Where no provision as to term of agreement

the collective agreement shall be deemed to be for a term of one year from the day on and from which it has effect pursuant to subsection (1).

(3) Nothing in subsection (2) shall be construed to prevent the amendment or revision of any provision of a collective agreement, other than a provision relating to the term of the collective agreement, that, under the agreement, may be amended or revised during the term thereof. 1970 (2nd) c. 1, s. 48.

Saving provision where agreement provides for amendment

49. (1) A collective agreement is, subject to and for the purposes of this Ordinance, binding on the employer, on the bargaining agent that is a party thereto and its constituent elements, and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on and from which it has effect pursuant to subsection 48(1). 1970 (2nd) c. 1, s. 49.

Binding effect of agreement

50. (1) Where the employer and the bargaining agent for a bargaining unit have, in accordance with section 41, bargained collectively in good faith with a view to concluding a collective agreement but have failed to reach agreement, either party may inform the Chairman that negotiations have broken down and request the Chairman to declare that a deadlock exists.

- (2) (a) When, in accordance with subsection (1), one of the parties has advised the Chairman that negotiations have broken down or that a deadlock exists, the Chairman may investigate the circumstances and request the parties to resume collective bargaining,
- (b) upon being satisfied that the parties have bargained in good faith and that a deadlock exists, the Chairman shall forthwith by notice in writing to the parties declare that a dispute exists. 1970 (2nd) c. 1, s. 50.

51. (1) Within five days after the bargaining agent for a bargaining unit has received the notice in writing referred to in subsection 50(2), it shall, in such manner as may be prescribed, specify which of either of the processes described in section 2 shall be the process for resolution of any dispute to which it is a party in respect of the bargaining unit.

(2) Where the dispute resolution process has been specified by a bargaining agent, the Chairman shall forthwith notify the employer of the specification.

(3) The process for resolution of a dispute specified by a bargaining agent as provided in subsection (1) shall be the process applicable to that bargaining unit for the resolution of all disputes from the day on which the process is specified until another notice to bargain collectively may be given. 1970 (2nd) c. 1, s. 51.

PROVISIONS APPLICABLE TO RESOLUTION OF DISPUTES

Provisions of Ordinance applicable depending on process for resolution of dispute

52. (1) Where the employer and the bargaining agent for a bargaining unit have bargained collectively in good faith with a view to concluding a collective agreement but have failed to reach agreement,

(a) if the process for resolution of a dispute applicable to the bargaining unit is by the referral thereof to arbitration, sections 53 to 65 apply to the resolution of the dispute, and

(b) if the process for resolution of a dispute applicable to the bargaining unit is by the referral thereof to a conciliation board, sections 66 to 77 apply to the resolution of the dispute. 1970 (2nd) c. 1, s. 52.

53. (1) Where a bargaining agent has specified in accordance with subsection 51(1) that the dispute resolution process applicable to a bargaining unit shall be by the referral thereof to arbitration, either party may by notice in writing to the Chairman given

(a) at any time, where no collective agreement has been entered into by the parties and no request for arbitration has been made by either party since the commencement of the bargaining, or

(b) not later than seven days after any collective agreement is entered into by the parties, in any other case, request arbitration in respect of that term or condition of employment.

Notice to be given

(2) Where arbitration is requested by notice under subsection (1), the party making the request shall

- (a) specify in the notice the terms and conditions of employment in respect of which it requests arbitration and its proposals concerning the award to be made by the arbitrator in respect thereof, and
- (b) annex to the notice a copy of any collective agreement entered into by the parties. 1970 (2nd) c. 1, s. 53.

54. (1) Where notice under section 53 is received by the Chairman from any party requesting arbitration, the Chairman shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the Chairman by notice in writing, of any matter, additional to the matters specified in the notice under section 53, that was a subject of negotiation between the parties during the period before the arbitration was requested but on which the parties were unable to reach agreement, and in respect of which, being a matter that may be embodied in an arbitral award, that other party requests arbitration.

Request for arbitration by other party

(2) Where arbitration in respect of any matter is requested by notice under subsection (1), the party making the request shall include in the notice its proposal concerning the award to be made by the arbitrator in respect thereof. 1970 (2nd) c. 1, s. 54.

Notice to include proposal concerning award

55. (1) Where, in respect of any matter in dispute, the employer or the bargaining agent, or both, have requested arbitration, the Chairman shall, within a period of fourteen days from the date of the notice under subsection 53(1) requesting arbitration,

- (a) appoint an arbitrator who shall proceed immediately to a consideration of the matter, and
- (b) send to the parties and to the arbitrator a copy of the notice under section 53 and of any notice under section 54.

(2) A person is not eligible to hold office as an arbitrator if, under subsection 9(1), he would not be eligible to be a member of the Board, or if he is a member of the Board.

Qualifications for membership

(3) No person shall act as arbitrator in respect of any matter referred to arbitration, if he has at any time since a day six months before the day of his appointment acted in respect of any matter concerning employer-employee relations as a solicitor, counsel or agent of the employer or of any employee organization that has any interest in the matter referred to arbitration. 1970 (2nd) c. 1, s. 55.

Idem

CONSIDERATION OF DISPUTE AND AWARD

Matters constituting terms of reference

56. (1) Subject to section 59, the matters in dispute specified in the notice under section 53 and in any notice under section 54 sent by the Chairman to the arbitrator constitute the terms of reference of the arbitrator in relation to the request for arbitration, and the arbitrator shall, after considering the matters in dispute together with any other matter that the arbitrator considers necessarily incidental to the resolution of the matters in dispute, render an arbitral award in respect thereof.

Where agreement subsequently reached

(2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute referred by the Chairman to the arbitrator, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute so referred to the arbitrator shall be deemed not to include that matter and no arbitral award shall be rendered by the arbitrator in respect thereof. 1970 (2nd) c. 1, s. 56.

Factors to be taken into account by arbitration

57. (1) In the conduct of proceedings before him and in rendering an arbitral award in respect of a matter in dispute the arbitrator shall consider

- (a) the needs of the public service for qualified employees;
- (b) the conditions of employment in similar occupations outside the public service, including such geographic, industrial or other variations as the arbitrator may consider relevant;
- (c) the need to maintain appropriate relationships in the conditions of employment as between different class levels within an occupation and as between occupations in the public service;
- (d) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and
- (e) any other factor that to him appears to be relevant to the matter in dispute. 1970 (2nd) c. 1, s. 57.

Procedure governing hearing and determination of disputes

58. (1) Subject to this Ordinance and any regulations made by the Commissioner in respect thereof, the arbitrator shall determine his own procedure but shall give full opportunity to both parties to present evidence and make submissions to him.

(2) The arbitrator has all the powers of the Board set out in paragraphs 18(a) to 18(e) and, in addition, may authorize any person to exercise any of the powers of the arbitrator set out in paragraphs 18(b) to 18(e) and report to the arbitrator thereon. 1970 (2nd) c. 1, s. 58.

Powers of arbitration

SUBJECT MATTER OF ARBITRAL AWARD

59. (1) Subject to this section, an arbitral award may deal with rates of pay, hours of work, leave entitlements, and other terms and conditions of employment directly related thereto.

Subject matter of arbitral award

(2) Subsection 47(2) applies, *mutatis mutandis*, in relation to an arbitral award.

(3) No arbitral award shall deal with the standards, procedures or processes governing the appointments, appraisal, promotion, demotion, transfer, lay-offs, release or discipline of employees, or with the classification of positions or with any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof.

(4) An arbitral award shall deal only with terms and conditions of employment of employees in the bargaining unit in respect of which the request for arbitration was made. 1970 (2nd) c. 1, s. 59.

Award to be limited to bargaining unit

MAKING OF ARBITRAL AWARD

60. (1) An arbitral award shall be signed by the arbitrator and copies thereof shall thereupon be transmitted to the parties to the dispute and to the Chairman.

(2) An arbitral award shall, wherever possible, be made in such form

Form of award

- (a) as will be susceptible of being
 - (i) read and interpreted with; or
 - (ii) annexed to and published with, any collective agreement dealing with other terms and conditions of employment of the employees in the bargaining unit in respect of which the arbitral award applies; and
- (b) as will enable its incorporation into and implementation by regulations, by-laws, directives or other instruments that may be required to be made or issued by the employer or the relevant bargaining agent in respect thereof. 1970 (2nd) c. 1, s. 60.

DURATION AND OPERATION OF ARBITRAL AWARDS

Binding effect of
arbitral award

61. (1) An arbitral award is, subject to and for the purposes of this Ordinance binding on the employer and the bargaining agent that is a party thereto and on the employees in the bargaining unit in respect of which the bargaining agent has been certified, effective on and from the day on which the award is rendered or such later day as the arbitrator may determine.

(2) Subject to subsection (3), a provision of an arbitral award made in respect of a term or condition of employment may be retroactive to the extent that it is capable of being retroactively applied, in whole or in part, to a day prior to the day on and from which the arbitral award becomes binding on the parties but not before the day on which notice to bargain collectively was given by either party.

(3) Where notice to bargain collectively is given by either party before the termination date of an existing collective agreement or arbitral award, the provisions of an arbitral award may be made retroactive only to the termination date of such collective agreement or arbitral award.

Effect on
previous collec-
tive agreement
or award

(4) Where, in relation to any or all of the provisions of an arbitral award made in respect of terms and conditions of employment, there was previously in effect a collective agreement or arbitral award, the previous collective agreement or the previous arbitral award is displaced, to the extent of any conflict, for the term, determined in accordance with section 62, for which the subsequent award is operative. 1970 (2nd) c. 1, s. 61.

Term of arbitral
award

62. (1) The arbitrator shall, in respect of every arbitral award, determine and specify therein the term for which the arbitral award is to be operative and, in making its determination, he shall take into account,

- (a) where a collective agreement applicable to the bargaining unit is in effect or has been entered into but is not yet in effect, the term of that collective agreement, and
- (b) where no collective agreement applying to the bargaining unit has been entered into,
 - (i) the term of any previous collective agreement that applied to the bargaining unit, or
 - (ii) the term of any other collective agreement that to the arbitrator appears relevant.

(2) No arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (1)(a) or (1)(b), shall be for a term of less than one year or more than two years from the day on and from which it becomes binding on the parties. 1970 (2nd) c. 1, s. 62.

Limitation on term of award

IMPLEMENTATION OF ARBITRAL AWARDS

63. (1) The rates of pay, hours of work, leave entitlements, and other terms and conditions of employment directly related thereto that are the subject of an arbitral award shall, subject to the appropriation by or under the authority of the Territorial Council of any moneys that may be required by the employer therefor, be implemented by the parties within a period of ninety days from the date on and from which it becomes binding on the parties or within such longer period as, on application to the Board by either party, appears reasonable to the Board. 1970 (2nd) c. 1, s. 63.

Implementation of awards

COMPLETION AND VARIATION OF ARBITRAL AWARDS

64. (1) Where in respect of an arbitral award it appears to either of the parties that the arbitrator has failed to deal with any matter in dispute referred to it by the Chairman, such party may, within fourteen days from the day the award is rendered, refer the matter back to the arbitrator, and the arbitrator shall thereupon deal with the matter in the same manner as in the case of a matter in dispute referred to it under section 55. 1970 (2nd) c. 1, s. 64.

Reference back to arbitration

65. (1) The arbitrator may, upon application jointly by both parties to an arbitral award or on referral by the Chairman amend, alter or vary any provision of that award where it is made to appear to the arbitrator that the amendment, alteration or variation thereof is warranted having regard to circumstances that have arisen since the making of the award or of which the arbitrator did not have notice at the time of the making thereof, or having regard to such other circumstances as the arbitrator deems relevant. 1970 (2nd) c. 1, s. 65.

Authority to amend or vary award

CONCILIATION BOARDS: REQUEST FOR ESTABLISHMENT OF CONCILIATION BOARD

66. (1) Where a bargaining agent has specified in accordance with subsection 51(1) that the dispute resolution process applicable to a bargaining unit shall be by the referral thereof to a conciliation board, either party may, by notice in writing to the Chairman, request the establishment of a

conciliation board for the investigation and conciliation of the dispute. 1970 (2nd) c. 1, s. 66.

67. (1) Where in respect of a dispute, either party has requested the establishment of a conciliation board, or where it appears to the Chairman that the establishment of such board may serve the purpose of assisting the parties in reaching agreement, the Chairman shall establish a board for the investigation and conciliation of the dispute.

(2) Notwithstanding subsection (1), no conciliation board shall be established for the investigation and conciliation of a dispute in respect of a bargaining unit until

- (a) the parties have agreed or the Board has determined pursuant to section 43 the employees or classes of employees in the bargaining unit who are designated employees, and
- (b) any conciliator that may have been appointed under section 44 has made a final report to the Chairman that he has been unable to assist the parties in reaching agreement. 1970 (2nd) c. 1, s. 67.

Constitution of conciliation Board. Appointment of members

68. (1) A conciliation board shall consist of three members appointed in the manner provided in this section.

(2) When a conciliation board is to be established, the Chairman shall by notice require each of the parties, within seven days from the receipt of such notice, to nominate one person each to be a member of the conciliation board, and upon receipt of the nominations within those seven days, the Chairman shall appoint the persons so nominated as members of the conciliation board.

Idem.

(3) If either of the parties fails to nominate a person within seven days from the receipt by it of the notice referred to in subsection (2), the Chairman shall appoint as a member of the conciliation board a person he deems fit for the purpose, and such member shall be deemed to have been appointed on the nomination of that party.

Appointment of Chairman

(4) The two members appointed under subsection (2) or (3) shall, within five days after the day on which the second of them was appointed, nominate a third person who is ready and willing to act, to be chairman of the conciliation board, and the Chairman shall thereupon appoint such person as the chairman of the conciliation board.

Idem.

(5) If the two members appointed under subsection (2) or (3) fail to make such a nomination within five days after the second of them was appointed, the Chairman shall forthwith

appoint as the chairman of the conciliation board a person he deems fit for the purpose.

(6) The provisions of subsections 55(2) and 55(3) apply *mutatis mutandis* in relation to the qualification of persons to act as members of a conciliation board. Qualifications of members

(7) The members of a conciliation board are entitled to be paid such *per diem* or other allowances with respect to the performance of their duties under this Ordinance as may be fixed by the Commissioner. 1970 (2nd) c. 1, s. 68. Allowances payable to members

69. (1) Where any vacancy occurs in the membership of a conciliation board before the board has reported its findings and recommendations to the Chairman, the vacancy shall be filled by the Chairman by appointment in the manner provided in section 68 for the selection of the person in respect of whom the vacancy arose. 1970 (2nd) c. 1, s. 69. Vacancies

70. (1) Forthwith upon the establishment of a conciliation board, the Chairman shall notify the parties of its establishment and of the names of its members. Notification of establishment of conciliation board

(2) Upon the notification of the parties by the Chairman of the establishment of a conciliation board, it shall be conclusively presumed that the conciliation board described in the notice has been established in accordance with this Ordinance, and no order shall be made or process entered, and no proceedings shall be taken in any court, to question the establishment of the conciliation board or to review, prohibit or restrain any of its proceedings. 1970 (2nd) c. 1, s. 70. Effect of notification

TERMS OF REFERENCE

71. (1) Forthwith upon the establishment of a conciliation board, the Chairman shall deliver to the conciliation board a statement setting forth the matters on which the board shall report its findings and recommendations to the Chairman, and the Chairman may, either before or after the report to him of its findings and recommendations, amend such statement by adding thereto or deleting therefrom any matter he deems necessary or advisable in the interest of assisting the parties in reaching agreement. 1970 (2nd) c. 1, s. 71. Terms of reference of conciliation board

PROCEDURE

72. (1) A conciliation board shall, as soon as possible after the receipt by it of the statement referred to in section 71, Duties of conciliation board

endeavour to bring about agreement between the parties in relation to the matters set forth in the statement.

Rules of procedure

(2) Except as otherwise provided in this Ordinance, a conciliation board may determine its own procedure, but shall give full opportunity to both parties to present evidence and make representations.

Sittings

(3) The chairman of a conciliation board may, after consultation with the other members of the board, fix the times and places of its sittings and shall notify the parties of the time and places so fixed.

Quorum and absence of members

(4) The chairman of a conciliation board and one other member constitute a quorum, but in the absence of a member at any sitting of the board the other members shall not proceed unless the absent member has been given reasonable notice of the sitting.

Decision

(5) A decision of a majority of the members of a conciliation board on any matter referred to it is a decision of the board thereon.

Report of proceedings

(6) The chairman of a conciliation board shall forward to the Chairman a detailed statement signed by him of the sittings of the conciliation board and of the members and witnesses present at each sitting. 1970 (2nd) c. 1, s. 72.

Powers of conciliation board

73. (1) A conciliation board has all the powers of the Board set out in paragraphs 18(a) to 18(e) and, in addition, may authorize any person to exercise any of the powers of the conciliation board as set out in paragraphs 18(b) to 18(e), and report to the conciliation board thereon. 1970 (2nd) c. 1, s. 73.

REPORT

Report to Chairman

74. (1) A conciliation board shall, within fourteen days after the receipt by it of the statement referred to in section 71 or within such longer period as may be agreed upon by the parties or determined by the Chairman, report its findings and recommendations to the Chairman.

(2) Subsection 47(2) applies, *mutatis mutandis*, in relation to a recommendation in a report of a conciliation board.

(3) No report of a conciliation board shall contain any recommendation concerning the standards, procedure or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off, release or discipline of employees, or with the classification of positions.

(4) After a conciliation board has reported to the Chairman its findings and recommendations on the matters set forth in the statement referred to in section 71, the Chairman may direct it to reconsider and clarify or amplify its report or any part thereof, or to consider and report on any matter added to such statement pursuant to that section, except that in any such case the report of the conciliation board shall be deemed to have been received by the Chairman notwithstanding that the reconsidered report or the report on the added matter, as the case may be, has not been received by him. 1970 (2nd) c. 1, s. 74.

Reconsideration of matters contained in report

75. (1) On receipt of the report of a conciliation board, the Chairman shall forthwith cause a copy thereof to be sent to the parties and may cause the report to be published in such manner as he sees fit. 1970 (2nd) c. 1, s. 75.

Copy of report to be sent to parties

76. (1) No report of a conciliation board, and no testimony or proceedings before a conciliation board, are receivable in evidence in any court in the Territory except in the case of a prosecution for perjury. 1970 (2nd) c. 1, s. 76.

Report as evidence

77. (1) Where at any time before a conciliation board has made its report the parties so agree in writing, a recommendation made by a conciliation board shall be binding on the parties, subject to and for the purposes of this Ordinance and shall be given effect to accordingly. 1970 (2nd) c. 1, s. 77.

Binding effect where agreed by parties

GRIEVANCES :

RIGHT TO PRESENT GRIEVANCES

- 78. (1) Where any employee feels himself to be aggrieved
 - (a) by the interpretation or application in respect of him of
 - (i) a provision of an Ordinance, or of a regulation, by-law, direction or other instrument made or issued by the employer, dealing with terms and conditions of employment, or
 - (ii) a provision of a collective agreement or an arbitral award, or
 - (b) as a result of any occurrence or matter affecting his terms and conditions of employment, other than a provision described in subparagraph (a)(i) or (a)(ii).

Right of employee to present grievance

in respect of which no administrative procedure for redress is provided in or under an Ordinance, he is entitled, subject to subsection (2), to present the grievance at each of the levels, commission

up to and including the final level, in the grievance process provided for by this Ordinance.

(2) An employee is not entitled to present any grievance relating to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award unless he has the approval of and is represented by the bargaining agent for the bargaining unit to which the collective agreement or arbitral award applies, or any grievance relating to any action taken pursuant to an instruction, direction or regulation given or made as described in section 101.

Right to be represented by employee organization

(3) An employee who is not included in a bargaining unit for which an employee organization has been certified as bargaining agent may seek the assistance of and, if he chooses, may be represented by any employee organization in the presentation of a grievance.

Idem.

(4) No employee who is included in a bargaining unit for which an employee organization has been certified as bargaining agent may be represented by any employee organization, other than the employee organization certified as such bargaining agent, in the presentation or reference to adjudication of a grievance.

(5) Notwithstanding anything contained in subsections (1) to (4) the bargaining agent may present a grievance to the employer on behalf of one or more members of the bargaining unit with respect to the interpretation or application of a collective agreement or arbitral award in accordance with the grievance procedure provided for in this Ordinance. 1970 (2nd) c. 1, s. 78.

79. (1) Where an employee has presented a grievance up to and including the final level in the grievance process with respect to the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award, and his grievance has not been dealt with to his satisfaction, he may, subject to subsection (2) refer the grievance to adjudication.

(2) The employee is not entitled to refer the grievance to adjudication unless the bargaining agent for the bargaining unit to which the collective agreement or arbitral award applies signifies in prescribed manner

- (a) its approval of the reference of the grievance to adjudication, and
- (b) its willingness to represent the employee in the adjudication proceedings.

(3) An employee is not entitled to refer a grievance respecting release for cause during or at the end of his probationary period to adjudication.

(4) A grievance submitted by the bargaining agent to the employer in accordance with subsection 78(5) may be referred to an adjudicator who shall determine the question and whose decision upon the matter shall be final and binding. 1970 (2nd) c. 1, s. 79.

80. (1) The Board shall appoint such officers, to be called adjudicators, as may be required to hear and adjudicate upon grievances referred to adjudication under this Ordinance or under section 25 of the *Public Service Ordinance*.

(2) The Chairman shall administer the system of grievance adjudication established under this Ordinance and may designate one of the adjudicators appointed under this section to administer the system of grievance adjudication established under this Ordinance on his behalf.

(3) Subsections 55(2) and 55(3) apply *mutatis mutandis* in relation to the eligibility of a person to hold office or act as an adjudicator or to be named as an adjudicator in a collective agreement, in respect of any grievance referred to adjudication.

(4) An adjudicator appointed pursuant to this section has in relation to the hearing of any grievance referred to him under this Ordinance the power

- (a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as he deems requisite to the full investigation and consideration of matters within his jurisdiction in the same manner and to the same extent as a judge of the Court;
- (b) to administer oaths and affirmations;
- (c) to receive and accept such evidence and information on oath, affidavit or otherwise as in his discretion he sees fit, whether admissible in a court of law or not. 1970 (2nd) c. 1, s. 80.

81. (1) Where a grievance has been referred to adjudication, the aggrieved employee shall, in the manner prescribed, notify the Chairman and the employer and shall specify in the notice whether an adjudicator is named in the applicable collective agreement.

(2) Where a grievance has been referred to adjudication and the aggrieved employee has notified the Chairman and the employer as required by subsection (1), the Chairman shall, in the manner and within the time prescribed,

- (a) where an adjudicator is named in a collective agreement, refer the matter to the adjudicator so named, and
- (b) in any other case, refer the matter to an adjudicator selected by him. 1970 (2nd) c. 1, s. 81.

JURISDICTION OF ADJUDICATOR

Compliance with procedures in grievance process

82. (1) Subject to any regulation made by the Commissioner under paragraph 86(1)(d), no grievance shall be referred to adjudication and no adjudicator shall hear or render a decision on a grievance until all procedures established for the presenting of the grievance up to and including the final level in the grievance process have been complied with.

No decision requiring amendment of agreement or award

(2) No adjudicator shall, in respect of any grievance, render any decision thereon the effect of which would be to require the amendment of a collective agreement or an arbitral award.

Binding effect of decision at final level in grievance process

(3) Where

- (a) a grievance has been presented up to and including the final level in the grievance process, and
- (b) the grievance is not one that under section 79 may be referred to adjudication,

the decision on the grievance taken at the final level in the grievance process is final and binding for all purposes of this Ordinance and no further action under this Ordinance may be taken thereon. 1970 (2nd) c. 1, s. 82.

DECISION OF ADJUDICATOR

Hearing of grievance

83. (1) Where a grievance is referred to adjudication, the adjudicator shall give both parties to the grievance an opportunity of being heard.

Decision on grievance

(2) After considering the grievance, the adjudicator shall render a decision thereon and

- (a) send a copy thereof to each party and his or its representative, and to the bargaining agent, if any, for the bargaining unit to which the employee whose grievance it is belongs, and
- (b) deposit a copy of the decision with the Chairman.

(3) Where a decision on any grievance referred to adjudication requires any action by or on the part of the employer, the employer shall take such action. Implementation of decision by employer

(4) Where a decision on any grievance requires any action by or on the part of an employee or a bargaining agent or both of them, the employee or bargaining agent, or both, as the case may be, shall take such action. Action to be taken by employee or bargaining agent

(5) The Board may, in accordance with section 17, take such action as is contemplated by that section to give effect to the decision of an adjudicator on a grievance but shall not enquire into the basis or substance of the decision. 1970 (2nd) c. 1, s. 83. Powers of Board with respect to decision on grievance

EXPENSES OF ADJUDICATION

84. (1) Where an adjudicator is named in a collective agreement, the method of determining his remuneration and of defraying such expenses as he may incur shall be as established in the collective agreement naming the adjudicator, but if the agreement does not specify such method, the named adjudicator's remuneration and his expenses shall be borne by the parties. Where adjudicator named in collective agreement

(2) Where a grievance is referred to adjudication but is not referred to an adjudicator named in a collective agreement, the bargaining agent is liable to pay and shall remit to the Board such part of the costs of the adjudication as may be determined by the Board.

(3) Any amount that by subsection (2) is payable to the Board by a bargaining agent may be recovered as a debt due to the Commissioner by the bargaining agent which shall, for the purposes of this subsection, be deemed to be a person. 1970 (2nd) c. 1, s. 84. Recovery

85. (1) Where

- (a) the employer or the bargaining agent seeks to enforce an obligation that is alleged to arise out of a collective agreement or arbitral award, and
- (b) the obligation, if any, is not an obligation the enforcement of which may be the subject of a grievance of an employee in the bargaining unit to which the collective agreement or arbitral award applies,

either the employer or the bargaining agent may, in prescribed manner, refer the matter to adjudication, and the Chairman shall refer the matter to an adjudicator selected by him who shall hear and determine whether there is an obliga-

tion as alleged and whether, if there is, there has been a failure to observe or to carry out the obligation.

- (2) The adjudicator selected in the manner provided in subsection (1) shall hear and determine the matter so referred to him as though it were a grievance, and subsection 82(2) and sections 83 and 84 apply to its hearing and determination. 1970 (2nd) c. 1, s. 85.

REGULATIONS RESPECTING GRIEVANCES

Regulations re
procedures for
presentation of
grievances

86. (1) The Commissioner may, on the recommendation of the Board, make regulations in relation to the procedure for the presenting of grievances, including regulations respecting

- (a) the manner and form of presenting a grievance;
- (b) the maximum number of levels of officers of the employer to whom grievances may be presented;
- (c) the time within which a grievance may be presented up to any level in the grievance process including the final level;
- (d) the circumstances in which any level below the final level in the grievance process may be eliminated; and
- (e) in any case of doubt, the circumstances in which any occurrence or matter may be said to constitute a grievance.

Application of
regulations

(2) Any regulations made by the Commissioner under subsection (1) in relation to the procedure for the presentation of grievances shall not apply in respect of employees included in a bargaining unit for which a bargaining agent has been certified by the Board, to the extent that such regulations are inconsistent with any provisions contained in a collective agreement entered into by the bargaining agent and the employer applicable to those employees.

Regulations re
adjudication of
grievances

(3) The Commissioner, on the recommendation of the Board, may make regulations in relation to the adjudication of grievances, including regulations respecting

- (a) the manner in which and the time within which a grievance may be referred to adjudication after it has been presented up to and including the final level in the grievance process, and the manner in which and the time within which a grievance referred to adjudication shall be referred by the Chairman to an adjudicator;
- (b) the procedure to be followed by adjudicators with regard to the powers vested in him by subsection 80(4);
- (c) the form of decisions rendered by adjudicators.

(4) For the purposes of any provision of this Ordinance respecting grievances, the employer shall designate the person whose decision on a grievance constitutes the final or any level in the grievance process and the employer shall, in any case of doubt, by notice in writing advise any person wishing to present a grievance, or the Chairman, of the person whose decision thereon constitutes the final or any level in such process. 1970 (2nd) c. 1, s. 86.

Employer to designate persons at final or any level in grievance process

REVIEW OF ORDERS

87. (1) Except as provided in this Ordinance, every order, award, direction, decision, declaration or ruling of the Board, an arbitrator or an adjudicator is final and shall not be questioned or reviewed in any court.

Orders not subject to review by court

(2) No order shall be made or process entered, and no proceedings shall be taken in any court, whether by way of injunction, certiorari, prohibition, *quo warranto* or otherwise, to question, review, prohibit or restrain the Board, an arbitrator or an adjudicator in any of its or his proceedings. 1970 (2nd) c. 1, s. 87.

No review by injunction, etc.

RIGHTS AND PROHIBITIONS RELATING TO STRIKES

88. (1) No employee shall participate in a strike

- (a) who is not included in a bargaining unit for which a bargaining agent has been certified by the Board ;
- (b) who is included in a bargaining unit for which the process for resolution of a dispute is by the referral thereof to arbitration ; or
- (c) who is a designated employee.

Participation by employee in strike

(2) No employee who is not an employee described in subsection (1) shall participate in a strike

- (a) where a collective agreement applying to the bargaining unit in which he is included is in force, or
- (b) where no collective agreement applying to the bargaining unit in which he is included is in force, unless
 - (i) a conciliation board for the investigation and conciliation of a dispute in respect of that bargaining unit has been established and fourteen days have elapsed from the receipt by the Chairman of the report of the conciliation board, and
 - (ii) a notice of intention to strike and the time the strike will commence has been delivered to the employer by the bargaining agent not less than

forty-eight hours before the commencement of the strike.

(3) Where subsections (1), (2) and (3) are complied with, employees may strike and during the continuance of the strike

(a) the employer shall not replace the striking employees or fill their positions with any other employees; and

(b) no employee shall picket, parade or in any manner demonstrate in or near any place of business of the employer. 1970 (2nd) c. 1, s. 88.

Declaration of authorization of strike

89. (1) No employee organization shall declare or authorize a strike of employees, and no officer or representative of an employee organization shall counsel or procure the declaration or authorization of a strike of employees or the participation of employees in a strike, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 88. 1970 (2nd) c. 1, s. 89.

Application for declaration of strike, as unlawful

90. (1) Where it is alleged by the employer that an employee organization has declared or authorized a strike of employees, the effect of which is or would be to involve the participation of an employee in a strike in contravention of section 88, the employer may apply to the Board, for a declaration that the strike is or would be unlawful and the Board, after affording an opportunity to the employee organization to be heard on the application, may make such a declaration.

Application for declaration of strike as lawful

(2) Where it is alleged by a bargaining agent for a bargaining unit that the participation of employees included in the bargaining unit in a strike authorized or declared, or proposed to be authorized or declared, by the bargaining agent is not or would not be in contravention of section 88, the bargaining agent may apply to the Board for a declaration that the strike is or would be lawful and the Board, after affording an opportunity to the employer to be heard on the application, may make such a declaration. 1970 (2nd) c. 1, s. 90.

Offences and punishment

91. (1) Every employee who contravenes section 88 commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars.

Idem.

(2) Every officer or representative of an employee organization who contravenes section 89 commits an offence and is liable on summary conviction to a fine not exceeding three hundred dollars.

(3) Every employee organization that contravenes section 89 commits an offence and is liable on summary conviction to a fine not exceeding ten dollars for each employee in the relevant bargaining unit for each day that any strike declared or authorized by it in contravention of that section is or continues in effect. 1970 (2nd) c. 1, s. 91.

92. (1) A prosecution for an offence under section 91 may be brought against an employee organization and in the name of that organization, and for the purposes of any such prosecution an employee organization shall be deemed to be a person, and any act or thing done or omitted by an officer or representative of an employee organization within the scope of his authority to act on behalf of the employee organization shall be deemed to be an act or thing done or omitted by the employee organization. 1970 (2nd) c. 1, s. 92.

Prosecution of
employee
organization

93. (1) No prosecution arising out of an alleged failure by any person to comply with this Ordinance and no prosecution for an offence under this Ordinance shall be instituted except with the consent of the Board. 1970 (2nd) c. 1, s. 93.

PROTECTION OF MEMBERS AND STAFF

94. (1) No member of the Board, or of a conciliation board and no arbitrator or adjudicator, conciliator or officer or employee of or person appointed by the Board shall be required to give evidence in any civil action, suit or other proceeding respecting information obtained in the discharge of his duties under this Ordinance. 1970 (2nd) c. 1, s. 94.

Evidence
respecting
information
obtained under
ordinance

WITNESS FEES

95. (1) A person who is summoned by the Board, the arbitrator or a conciliation board to attend as a witness in any proceedings thereof taken pursuant to this Ordinance and who so attends is entitled to be paid an allowance for expenses determined in accordance with the scale for the time being in force with respect to witnesses in civil suits in the court. 1970 (2nd) c. 1, s. 95.

Payment of
witness fees

OATHS AND AFFIRMATIONS

96. (1) A person appointed under this Ordinance shall, before entering upon his duties, take an oath or affirmation in the form prescribed before any person authorized by the Commissioner to take such oath or affirmation. 1970 (2nd) c. 1, s. 96.

Oath or affirma-
tion to be taken

PROVISION OF FACILITIES AND STAFF

Facilities and staff

97. (1) The Commissioner shall provide the Board, an arbitrator, a conciliation board and an adjudicator with quarters and staff and such other facilities as are necessary to enable it or him to carry out its or his functions under this Ordinance. 1970 (2nd) c. 1, s. 97.

SUPERANNUATION

Application of Public Service Superannuation Act

98. (1) Unless the Commissioner otherwise orders in any case or class of cases, a person appointed under this Ordinance shall be deemed not to be employed in the Public Service for the purposes of the *Public Service Superannuation Act*. 1970 (2nd) c. 1, s. 98.

BASIC RIGHTS AND PROHIBITIONS RIGHTS

Right of membership in employee organization

99. (1) Every employee may be a member of an employee organization and may participate in the lawful activities of the employee organization of which he is a member. 1970 (2nd) c. 1, s. 99.

NOTICES

100. (1) Where a notice or other document is required to be filed or made by this Ordinance, such notice or other document shall be deemed to be filed or made

- (a) at the time it is received by the Board, or
- (b) where it is mailed by registered mail and addressed to the Board at the time it is mailed. 1970 (2nd) c. 1, s. 100.

SAVING PROVISION

Limitation respecting matters involving safety or security

101. (1) Nothing in this or any other Ordinance shall be construed to require an employee to do or refrain from doing anything contrary to any instruction, direction or regulation given or made by or on behalf of the Commissioner in the interest of the safety or security of the Territory.

Order to be conclusive proof

(2) For the purposes of subsection (1), any order made by the Commissioner is conclusive proof of the matters stated therein in relation to the giving or making of any instruction, direction or regulation by or on behalf of the Commissioner in the interest of the safety or security of the Territory. 1970 (2nd) c. 1, s. 101.

REPORT TO TERRITORIAL COUNCIL

102. (1) As soon as possible after the end of each year, the Board shall prepare and submit to the Commissioner a report on the administration of this Ordinance during that year and the Commissioner shall lay the Board's report before the Territorial Council within fifteen days after receipt thereof or, if Territorial Council is not then sitting, on any of the first fifteen days next thereafter that the Territorial Council is sitting. 1970 (2nd) c. 1, s. 102. Annual report

103. (1) Where any question of law or jurisdiction arises in connection with a matter than has been referred to an arbitrator or to an adjudicator pursuant to this Ordinance the arbitrator or adjudicator may, at any stage of the proceedings and shall, if so directed by a judge, state in the form of a special case for the opinion of a judge, any such question of law or jurisdiction arising but the stating of such case shall not operate to suspend any proceedings in connection with that matter unless the arbitrator or adjudicator or a judge determines that the nature of the question warrants a suspension of the proceedings. 1970 (2nd) c. 1, s. 103. Reference to Courts

CHAPTER R-1

RECIPROCAL ENFORCEMENT OF JUDGMENTS ORDINANCE

1. This Ordinance may be cited as the *Reciprocal Enforcement of Judgments Ordinance*. R.O. 1958, c. 95, s. 1. Short title

2. (1) In this Ordinance Definition

“judgment” means a judgment or order of a court in a civil proceeding whereby a sum of money is made payable, and includes an award in an arbitration proceeding if the award, under the law in force in the jurisdiction where it is made has become enforceable in the same manner as a judgment given by a court therein, but does not include a maintenance order within the meaning of the *Reciprocal Enforcement of Maintenance Orders Ordinance*: “judgment”

“judgment creditor” means the person by whom the judgment was obtained, and includes his executors, administrators, successors and assigns; “judgment creditor”

“judgment debtor” means the person against whom the judgment was given, and includes any person against whom the judgment is enforceable in the jurisdiction in which it was given; “judgment debtor”

“original court” in relation to a judgment means the court by which the judgment was given; “original court”

“registering court” in relation to a judgment means the court in which the judgment is registered under this Ordinance. R.O. 1958, c. 95, s. 2. “registering court”

3. (1) Where a judgment has been given in a court in a reciprocating jurisdiction, the judgment creditor may apply to the Court within six years after the date of the judgment to have the judgment registered, and the Court may order the judgment to be registered accordingly. Application for registration of judgment

(2) An order for registration under this Ordinance may be made *ex parte* in cases in which the judgment debtor was personally served with process in the original action, or in which, though not personally served, he appeared or defended or otherwise submitted to the jurisdiction of the original Application *ex parte* or on notice according to circumstances

court, but in other cases reasonable notice of the application for the order shall be given to the judgment debtor.

Conditions of registration

(3) No order for registration shall be made if it is shown to the court to which the application for registration is made that

- (a) the original court acted without jurisdiction ;
- (b) the judgment debtor being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit during the proceedings to the jurisdiction of that court ;
- (c) the judgment debtor, being the defendant in the proceedings, was not duly served with the process of the original court and did not appear, notwithstanding that he was ordinarily resident or was carrying on business within the jurisdiction of that court or agreed to submit to the jurisdiction of that court ;
- (d) the judgment was obtained by fraud ;
- (e) an appeal is pending or the time within which an appeal may be taken has not expired ;
- (f) the judgment was in respect of a cause of action that for reasons of public policy or for some similar reason would not have been entertained by the registering court ; or
- (g) the judgment debtor would have a good defence if an action were brought on the original judgment.

Method of registration

(4) Registration may be effected by filing the order and an exemplification or a certified copy of the judgment with the clerk of the court in which the order was made, whereupon the judgment shall be entered as a judgment of that court. R. O. 1958, c. 95, s. 3.

Where judgment is in a language other than English

4. (1) Where a judgment sought to be registered under this Ordinance is in a language other than the English language, the judgment or the exemplification or certified copy thereof, as the case may be, shall have attached thereto for all purposes of this Ordinance a translation in the English language approved by the Court, and upon such approval being given the judgment shall be deemed to be in the English language. R. O. 1958, c. 95, s. 4.

Effect of registration

5. (1) Where a judgment is registered under this Ordinance,

- (a) the judgment, from the date of the registration, is of the same force and effect as if it had been a judgment

given originally in the registering court on the date of the registration and proceedings may be taken thereon accordingly, except that where the registration is made pursuant to an *ex parte* order, no sale or other disposition of any property of the judgment debtor shall be made under the judgment before the expiration of the period fixed by paragraph 6(1)(b) or such further period as the registering court may order;

- (b) the registering court has the same control and jurisdiction over the judgment as it has over judgments given by itself; and
- (c) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining an exemplification or certified copy thereof from the original court and of the application for registration, are recoverable in like manner as if they were sums payable under the judgment if such costs are taxed by the proper officer of the registering court and his certificate thereof is endorsed on the order for registration. R. O. 1958, c. 95, s. 5.

6. (1) Where a judgment is registered pursuant to an *ex parte* order, *Ex parte orders*

- (a) within one month after the registration or within such further period as the registering court may order, notice of the registration shall be served upon the judgment debtor in the same manner as provided by the rules of the registering court for service of statements of claim; and
- (b) the judgment debtor, within one month after he has had notice of the registration, may apply to the registering court to have the registration set aside.

(2) On any application referred to in paragraph (1) (b) the court may set aside the registration upon any of the grounds mentioned in subsection 3(3) and upon such terms as the court thinks fit. R.O. 1958, c. 95, s. 6. *Idem.*

7. The Commissioner may make rules respecting the practice and procedure including costs in proceedings under this Ordinance and until rules are so made, the rules made under the *Reciprocal Enforcement of Judgments Act* of the Province of British Columbia shall *mutatis mutandis* be followed. R.O. 1958, c. 95, s. 7. *Rules of practice, etc.*

8. (1) Where the Commissioner is satisfied that reciprocal provisions have been or will be made by a province of Canada for the enforcement therein of judgments given in *Reciprocating jurisdictions, establishment*

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Reciprocal Enforcement of Judgments

the Territory, he may by order declare it to be a reciprocating jurisdiction for the purposes of this Ordinance.

Disestablishment **(2)** The Commissioner may revoke any order made under subsection **(1)** and thereupon the jurisdiction with respect to which the order was made ceases to be a reciprocating jurisdiction for the purposes of this Ordinance. R.O. 1958, c. 95, s. 8.

Effect of Ordinance **9. (1)** Nothing in this Ordinance deprives a judgment creditor of the right to bring an action on his judgment instead of proceeding under this Ordinance. R.O. 1958, c. 95, s. 9.

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

CHAPTER R-2

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the Reciprocal Enforcement of Maintenance Orders Ordinance. R.O. 1958, c. 96, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

"certified copy", in relation to an order of a court, means a copy of the order certified by the proper officer of the court to be a true copy ; "certified copy"

"court" means an authority having jurisdiction to make maintenance orders ; "court"

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

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

"reciprocating state" means a state declared under section 17 to be a reciprocating state. R.O. 1958, c. 96, s. 2 ; 1970 (1st) c. 7, s. 1. "reciprocating state"

3. (1) A maintenance order does not fail to be a maintenance order within the meaning in section 2 solely by reason of the fact that it may be varied by the court by which the order was made. 1970 (1st) c. 7, s. 2.

ENFORCEMENT OF MAINTENANCE ORDERS MADE IN RECIPROCATING STATES

4. (1) Where either before or after the 2nd day of April, 1955, a maintenance order has been made against a person by a court in a reciprocating state and a certified copy of the order has been transmitted by the proper officer of the Enforcement in Territory of maintenance orders made elsewhere

reciprocating state to the Commissioner, the Commissioner shall send a certified copy of the order for registration to the proper officer of a court in the Territory designated by the Commissioner as a court for the purposes of this section, and on receipt thereof the order shall be registered.

Effect of registration

(2) An order registered under subsection (1) has, from the date of its registration, the same force and effect, and, subject to this Ordinance, all proceedings may be taken thereon, as if it had been an order originally obtained in the court in which it is so registered, and that court has power to enforce the order accordingly.

(2.1) The court in which the order is registered may enforce the order in accordance with this Ordinance, notwithstanding that it is an order in proceedings in which the court has no original jurisdiction or that it is an order that the court has no power to make in the exercise of its original jurisdiction.

Where order expressed in foreign currency

(3) A maintenance order that makes payable a sum of money expressed in a currency other than the currency of Canada shall not be registered until the court in which it is sought to register the order has determined the equivalent of that sum in the currency of Canada, and upon its registration the order shall be deemed to be an order for the payment of the sum so determined. R.O. 1958, c. 96, s. 3; 1971 (3rd) c. 9, s. 1.

Setting aside

5. (1) Where a maintenance order has been registered under section 4 the person against whom the order was made may, within one month after he has had notice of the registration or within such further time as may be allowed under subsection (2), apply to the registering court to have the registration set aside.

Extension of time

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

Grounds for order

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

(a) the court in the reciprocating state acted without jurisdiction over the person against whom the order was made under the conflict of laws rules of the Territory; or

(b) the order was obtained by fraud; or

(c) an appeal is pending.

(4) If the court has set aside the registration of a maintenance order upon the ground that an appeal was pending, the court may at any time thereafter direct that such order be re-registered, and the re-registration may be ordered by the court after notice to the party against whom the order was made, if it is satisfied that the appeal has been dismissed and that no further appeal from such dismissal is pending. 1970 (1st) c. 7, s. 3.

Re-registration
after appeal

MAINTENANCE ORDERS AGAINST NON-RESIDENTS

6. (1) Where either before or after the 2nd day of April, 1955, a court in the Territory has made a maintenance order against a person and it is proved to the court that the person against whom the order was made is resident in a reciprocating state, the court shall, on the request of the person in whose favour the order was made, send a certified copy of the order to the Commissioner for transmission to the proper officer of the reciprocating state. R.O. 1958, c. 96, s. 4.

Transmission of
maintenance
orders made in
Territory

7. (1) Where an application is made to a court in the Territory for a maintenance order against a person and it is proved that that person is resident in a reciprocating state, the court may, in the absence of that person and without service of notice on him, if after hearing the evidence it is satisfied of the justice of the application, make any maintenance order that it might have made if a summons had been duly served on that person and he had failed to appear at the hearing; but an order so made is provisional only and has no effect until it is confirmed by a competent court in the reciprocating state.

Provisional
maintenance
orders against
persons residing
outside the
Territory

(2) Where the evidence of a witness who is examined on an application mentioned in subsection (1) is not taken in shorthand, the evidence shall be put into the form of a deposition, and the deposition shall be read over and signed by the witness and also by the judge or other person presiding at the hearing.

Depositions and
transcripts

(3) Where an order has been made pursuant to subsection (1),

Preparation of
statements and
transmission of
documents to
Commissioner

(a) the court shall prepare,

(i) a statement showing the grounds on which the making of the order might have been opposed if the person against whom the order was made had been duly served with a summons and had appeared at the hearing, and

- (ii) a statement showing the information that the court possesses for facilitating the identification of the person against whom the order was made and ascertaining his whereabouts; and
- (b) the court shall send to the Commissioner for transmission to the proper officer of the reciprocating state,
 - (i) a certified copy of the order,
 - (ii) the depositions or a certified copy of the transcript of the evidence, and
 - (iii) the statements referred to in paragraph (a).

Power to take new evidence on renvoi

(4) Where a provisional order made under this section has come before a court in a reciprocating state for confirmation and the order has by that court been remitted to the court in the Territory that made the order for the purpose of taking further evidence, the court in the Territory shall, after giving the notice prescribed by the rules, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

Further powers on renvoi

(5) Where upon the hearing of the evidence taken under subsection (4) it appears to the court in the Territory that the order ought not to have been made, the court may rescind the order, but in any other case the depositions or a certified copy of the transcript of the evidence, if it was taken in shorthand, shall be sent to the Commissioner and dealt with in like manner as the depositions or transcript of the original evidence.

Power of original court to vary or rescind

(6) The confirmation of an order made under this section does not affect any power of the court that originally made the order to vary or rescind the order, but an order varying an original order has not effect until it is confirmed in like manner as the original order.

Transmission of varying or rescinding order

(7) Where, after an order made under this section is confirmed, the court that originally made the order makes a varying or rescinding order, that court shall send a certified copy thereof, together with the depositions or a certified copy of the transcript of any new evidence adduced before the court, to the Commissioner for transmission to the proper officer of the reciprocating state in which the original order was confirmed.

Right of appeal

(8) An applicant for a provisional order under this section has the same right of appeal, if any, against a refusal to make the order as he would have had against a refusal to make the order if a summons had been duly served on the

person against whom the order is sought to be made. R.O. 1958, c. 96, s. 5.

CONFIRMATION OF MAINTENANCE ORDERS MADE IN RECIPROCATING STATES

8. (1) Where

- (a) a maintenance order has been made by a court in a reciprocating state and the order is provisional only and has no effect until confirmed by a court in the Territory ;
- (b) a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed if the person against whom the order was made had been a party to the proceedings is received by the Commissioner ; and
- (c) it appears to the Commissioner that the person against whom the order was made is resident in the Territory ;

Confirmation of maintenance orders made outside the Territory

the Commissioner may send the documents to a court designated by him as a court for the purposes of this section, and upon receipt of the documents the court shall issue a summons calling upon the person against whom the order was made to show cause why the order should not be confirmed, and cause it to be served upon such person.

(2) At a hearing under this section the person on whom the summons was served may raise any defence that he might have raised in the original proceedings if he had been a party thereto, but no other defence; and the statement from the court that made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings is conclusive evidence that those grounds are grounds on which objection may be taken.

Right of defence on application for confirmation

(3) Where, at a hearing under this section, the person who was served with the summons does not appear or, having appeared, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with such modifications as the court after hearing the evidence considers just.

Power to confirm with or without modification

(4) Where the person against whom a summons was issued under this section appears at the hearing and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court that made the provisional order for the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Power to remit to court that made provisional order

Variation or
rescission of
order that has
been confirmed

(5) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where on an application for rescission or variation the court is satisfied that it is necessary to remit the case to the court that made the order for the purpose of taking further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Right of appeal

(6) Where an order has been confirmed under this section, the person bound thereby has the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order if the order had been an order made by the court confirming the order.

Right of appeal

(7) Where the court has declined to confirm an order or a part thereof, or has varied or rescinded an order, the person in whose favour the order was made and the Commissioner have a like right of appeal.

Effect of
confirmation

(8) An order confirmed under this section has, from the date of its confirmation, the same force and effect, and, subject to this Ordinance, all proceedings may be taken thereon, as if it had been an order originally obtained in the court in which it is so confirmed, and that court has power to enforce the order accordingly. R.O. 1958, c. 96, s. 6; 1970 (1st) c. 7, s. 4.

Registration of
part of order

9. (1) If a maintenance order contains provisions with respect to matters other than periodical payments of money as alimony, maintenance, or support the order may be registered or confirmed under this Ordinance in respect of those provisions thereof that order or direct such periodical payment of money but may not be so registered or confirmed in respect of any other provisions therein contained.

Procedure after
variation by
originating court

(2) If in proceedings to enforce a maintenance order registered under this Ordinance, or if at any other time, it is established to the satisfaction of the court in which the order is registered or to which a certified copy thereof has been sent for registration or confirmation that the maintenance order has been varied by the court that made it, the court shall record the fact of the variation and the nature and extent of the variation, and any such maintenance order that has been registered shall be deemed to have been varied accordingly and may be enforced only in accordance with the variation, and any such maintenance order that has been sent for registration or confirmation shall be registered or confirmed only as so varied.

(3) Subsection (2) does not apply to provisional orders that have been confirmed and that may be varied by the confirming court under subsection 8(5). Exception

(4) Where under this Ordinance a maintenance order is sought to be registered or a provisional order is sought to be confirmed and the order or any accompanying document uses terminology different from the terminology used in the court designated under subsection 4(1), the difference does not prevent the order being registered or confirmed as the case may be, and when registered or confirmed it has the same force and effect as if it contained the terminology used in the court. 1970 (1st) c. 7, s. 5. Difference of terminology acceptable

GENERAL

10. (1) A court in which an order has been registered under this Ordinance or by which an order has been confirmed under this Ordinance and the officers of the court shall take all proper steps for enforcing the order. R.O. 1958, c. 96, s. 7. Enforcement of order

11. (1) Where under this Ordinance a document is sent to the Commissioner for transmission to the proper officer of a reciprocating state, the Commissioner shall transmit the document accordingly. R.O. 1958, c. 96, s. 8. Transmission of documents by Commissioner to reciprocating state

12. (1) The Commissioner may make regulations, Regulations
(a) prescribing the practice and procedure, including costs, under this Ordinance;
(b) for facilitating communications between courts in the Territory and courts in a reciprocating state for the purpose of confirmation of provisional orders pursuant to this Ordinance;
(c) providing such forms as may be necessary for the purposes of this Ordinance; and
(d) without being limited in any way by the foregoing, generally for the purpose of giving effect to the provisions of this Ordinance. R.O. 1958, c. 96, s. 9. 1970 (1st) c. 7, s. 6.

13. (1) A document purporting to be signed by a judge or officer of a court in a reciprocating state shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is Proof of documents signed by officer of court

proved, be deemed to have been the proper officer of the court to sign the document. R.O. 1958, c. 96, s. 10.

Depositions to
be evidence

14. (1) Depositions or transcripts from shorthand of evidence taken in a reciprocating state, for the purposes of this Ordinance, may be received in evidence before the court in the Territory under this Ordinance. R.O. 1958, c. 96, s. 11.

Where order in
foreign language

15. (1) Where a maintenance order sought to be registered or confirmed under this Ordinance is in a language other than the English language, the maintenance order or a certified copy thereof shall have attached thereto for all purposes of this Ordinance a translation in the English language approved by the court, and upon such approval being given the maintenance order shall be deemed to be in the English language. R.O. 1958, c. 96, s. 12.

Saving

16. (1) Nothing in this Ordinance deprives a person of the right to obtain a maintenance order instead of proceeding under this Ordinance. R.O. 1958, c. 96, s. 13.

Reciprocating
states

17. (1) Where the Commissioner is satisfied that reciprocal provisions will be made by a state in or outside Canada for the enforcement therein of maintenance orders made within the Territory, the Commissioner may by order declare it to be a reciprocating state for the purposes of this Ordinance.

Revocation
order

(2) The Commissioner may revoke any order made under subsection (1) and thereupon state with respect to which the order was made ceases to be a reciprocating state for the purposes of this Ordinance. R.O. 1958, c. 96, s. 14; 1970 (1st) c. 7, s. 7.

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

CHAPTER R-3

RECORDING OF EVIDENCE BY SOUND APPARATUS ORDINANCE

1. This Ordinance may be cited as the Recording of Evidence by Sound Apparatus Ordinance. 1963 (2nd) c. 1, s. 1. Short title

2. (1) In this Ordinance Definitions

"court" means any court, a judge, magistrate, justice of the peace, arbitrator, umpire, Commissioner or other person authorized by law or by order of a court or otherwise, to hear any witnesses or take any evidence or to make any order, decree, finding, decision or report or to exercise any judicial or quasi-judicial function; "court"

"evidence" includes judgments, decisions, opinions, speeches, reports and all other matters done or said by or before any court; "evidence"

"judge" includes any person lawfully presiding in a court; "judge"

"proceeding" means any civil case, prosecution under an Ordinance or other matter to which the legislative authority of the Commissioner in Council extends, that is before a court; "proceeding"

"record" means a record made in accordance with section 3; "record"

"reporter" means an official court reporter duly appointed in accordance with law or a stenographer or typist; "reporter"

"sound recording apparatus" means any device, machine or system of a type approved by the Commissioner for the making of a record of voice or other sound; "sound recording apparatus"

"trial" includes all motions, applications, trials and other matters which may properly be taken before a judge. 1963 (2nd) c. 1, s. 2. "trial"

3. (1) Notwithstanding any other Ordinance, the evidence in any proceeding or any portion of such evidence may be recorded by sound recording apparatus. 1963 (2nd) c. 1, s. 3; 1966 (2nd) c. 15, s. 1. Recording of evidence by sound recording apparatus

4. (1) A record shall be certified, by the judge or by the court official in charge of the sound recording apparatus Certification of record

during the proceeding, as being the record made of the evidence or part thereof, as the case may be, in the proceeding.

Certificate *prima facie* proof

(2) A certificate made under this section is, without proof of the signature of the judge or person in charge of the sound recording apparatus or of this official character, admissible in evidence as *prima facie* proof that the record is the record of the evidence or part thereof, as the case may be, in the proceeding. 1966 (2nd) c. 1, s. 4.

Typewritten copies

5. (1) A typewritten copy of the whole or any part of the contents of a record,

(a) reduced to writing by a reporter, and

(b) certified by the reporter to be a true and faithful transcript of the contents of the record,

is admissible in evidence before any court to the same extent and with the same effect as a transcript of shorthand notes duly prepared by a reporter in accordance with law. 1966 (2nd) c. 1, s. 5.

Playing of records in court

6. (1) The sounds recorded upon a record may be reproduced in a court by any appropriate machine or device and the reproduction shall be received by the court to the same extent and with the same effect as a typewritten copy prepared pursuant to section 5. 1966 (2nd) c. 1, s. 6.

Filing of records

7. (1) All records shall be filed in the office of the Clerk of the Territorial Court and shall not be removed except with authority of the Clerk for use in court or as required by an Ordinance or rule of the Territorial Court or upon the order of a judge of the Territorial Court. 1966 (2nd) c. 1, s. 7.

Order for destruction of records

8. (1) Any time after two years from the making of a record a judge of the Territorial Court may order the record destroyed or the recording thereon erased, cancelled, or otherwise destroyed.

Order may be of general application

(2) An order made pursuant to subsection (1) may be a general order to apply to all or any records made before a date set out in the order. 1966 (2nd) c. 1, s. 8.

Regulations

9. (1) The Commissioner may make regulations for carrying out the purposes of this Ordinance. 1966 (2nd) c. 1, s. 9.

CHAPTER R-4

REGULATIONS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Regulations Ordinance*. 1967 (2nd) c. 4, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance, unless the context otherwise requires, Definitions

“file” means file with the Registrar in the manner prescribed in section 3; “file”

“local authority” means the council of a municipality, village or local improvement district; “local authority”

“publish” means publish in the manner prescribed in section 4; “publish”

“Registrar” means the Registrar of Regulations appointed under this Ordinance; “Registrar”

“regulation” means any regulation, proclamation, rule, order or by-law made under the authority of any Ordinance of the Yukon Territory but does not include “regulation”

(a) an order or decision of a judicial tribunal,

(b) a rule, order or regulation governing the practice or procedure in any proceedings before a judicial tribunal,

(c) a rule, order, regulation, resolution, or by-law made by a local authority, or

(d) a rule, regulation or by-law of a company incorporated under the laws of the Territory,

“regulation-making authority” means every authority authorized to make regulations and with reference to a regulation means the authority that made the regulation. 1967 (2nd) c. 4, s. 2. “regulation-making authority”

FILING AND COMING INTO FORCE

3. (1) Every regulation-making authority shall, within fifteen days after it makes a regulation, file with the Registrar that regulation or a certified copy thereof. File the regulation

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Coming into force (2) Unless a later day is provided, a regulation other than one referred to in section 10, shall come into force on the day it is filed with the Registrar. 1967 (2nd) c. 4, s. 3.

PUBLICATION

Publication of title 4. (1) The Registrar shall, within one month of the filing thereof, publish the title of every regulation in the Yukon Gazette.

Publication of title and order (2) The Commissioner may, by order, extend the time for publication and a copy of the order shall be published with the title of the regulation.

Offence (3) No regulation is invalid by reason only that it was not published in the Yukon Gazette, but no person shall be convicted for an offence consisting of a contravention of any regulation the title of which was not published in the Yukon Gazette, unless it is proved that at the time of the alleged contravention reasonable steps have been taken for the purpose of bringing the purport of the regulation to the notice of the public or the persons likely to be affected by it or the person charged. 1967 (2nd) c. 4, s. 4.

JUDICIAL NOTICE

Regulation judicially noticed 5. (1) A regulation the title of which has been published in the Yukon Gazette shall be judicially noticed.

Proof of filing (2) Production of a certificate by the Registrar that the regulation was filed on a specified date is prima facie proof that it was so filed.

Evidence of regulation (3) In addition to any mode of proof, evidence of a regulation may be given by the production of

- (a) the Yukon Gazette purporting to contain the title thereof;
- (b) a consolidation or supplement of the regulation published pursuant to paragraph 9(1)(d); or
- (c) a copy or extract of the regulation certified as a true copy or extract by the Registrar. 1967 (2nd) c. 4, s. 5.

EXEMPTIONS

Commissioner may exempt 6. (1) The Commissioner may exempt from any of the provisions of this Ordinance

- (a) exemption orders under the Workmen's Compensation Ordinance;

- (b) committal orders under the *Mentally Disordered Persons Ordinance*; and
- (c) civil emergency plan regulations under the *Civil Emergency Measures Ordinance*. 1967 (2nd) c. 4, s. 6.

7. (1) The Commissioner shall appoint a Registrar of Regulations who shall, under the control and direction of the Commissioner, be responsible for the recording, numbering and indexing of all regulations filed with him and for the publication thereof in accordance with this Ordinance. 1967 (2nd) c. 4, s. 7. Registrar of regulations

RECORDING

8. (1) Regulations made after the coming into force of this Ordinance and filed with the Registrar shall be numbered in the order in which they are received and a new series shall be commenced in each calendar year. Filing order

(2) The regulations referred to in subsection (1), may be cited as "Commissioner's Order" followed by the year, followed in turn by an oblique stroke and the number of the order. 1967 (2nd) c. 4, s. 8. Title of regulations

REGULATIONS

9. (1) The Commissioner may make regulations Regulations

- (a) prescribing the powers and duties of the Registrar;
- (b) prescribing the form and arrangement of regulations;
- (c) prescribing a system of indexing regulations;
- (d) providing for the publication of consolidations of regulations filed pursuant to this Ordinance at such intervals of times as he deems advisable and for the publication of supplements to the consolidations;
- (e) prescribing fees that may be charged by the Registrar for the inspection of any regulation; and
- (f) generally for carrying out the provisions of this Ordinance.

(2) Publication of a regulation in any consolidation or supplement thereto shall be deemed publication within the meaning of this Ordinance. 1967 (2nd) c. 4, s. 9. Publication

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

CHAPTER R-5

REHABILITATION SERVICES ORDINANCE

1. This Ordinance may be cited as the *Rehabilitation Services Ordinance* 1968 (4th) c. 6, s. 1. Short title

2. (1) In this Ordinance Definitions

“Board” means the Yukon Rehabilitation Services Board ; “Board”

“Co-ordinator” means the Co-ordinator of Rehabilitation Services ; “Co-ordinator”

“disabled person” means a person who because of physical or mental impairment is incapable of pursuing regularly any substantially gainful occupation ; “disabled person”

“rehabilitation services” means any process of restoration, training and employment placement, including services related thereto, the object of which is to enable a person to become capable of pursuing regularly a substantially gainful occupation. 1968 (4th) c. 6, s. 2. “rehabilitation services”

3. (1) The Commissioner may enter an agreement with the Minister of Manpower and Immigration of Canada for the purpose of providing for payment by Canada to the Commissioner of contributions in respect of the costs incurred by the Territory in undertaking in the Territory a comprehensive program for the vocational rehabilitation of disabled persons. 1968 (4th) c. 6, s. 3. Agreement

4. (1) Application for rehabilitation services under this Ordinance may be made by or on behalf of a disabled person Application for rehabilitation services

(a) who is not eligible for vocational rehabilitation under the *Veterans Rehabilitation Act of Canada*, or

(b) whose disability is not the result of an injury in respect of which benefits are payable to that person under any workmen’s compensation law. 1968 (4th) c. 6, s. 4 ; 1969 (2nd) c. 5, s. 1.

5. (1) The Commissioner shall appoint Co-ordinator

(a) a Co-ordinator of Rehabilitation Services and when the Co-ordinator is absent, his powers and duties shall

be exercised by a person designated by the Commissioner; and

Board

- (b) a Yukon Rehabilitation Services Board consisting of:
- (i) a chairman who shall be the Co-ordinator;
 - (ii) the manager of the Canada Manpower Centre in the City of Whitehorse;
 - (iii) the Yukon Zone Director of the Department of National Health and Welfare of Canada; and
 - (iv) the Director of the Department of Social Welfare. 1968 (4th) c. 6, s. 5.

Duties of Board

6. (1) The Board shall
- (a) establish appropriate means of seeking disabled persons in need of rehabilitation services;
 - (b) receive applications for rehabilitation services; and
 - (c) assess the suitability of each applicant for rehabilitation services and make recommendations to the Co-ordinator. 1968 (4th) c. 6, s. 6.

Co-ordinator may approve amounts prescribed

7. (1) The Co-ordinator may approve the provision of rehabilitation services. 1968 (4th) c. 6, s. 7.

8. (1) Where the Co-ordinator has approved rehabilitation services, there may be paid to a disabled person, or on that person's behalf, such amounts as are prescribed by the regulations. 1968 (4th) c. 6, s. 8.

Regulations

9. (1) The Commissioner may make regulations
- (a) governing the manner of making application;
 - (b) prescribing qualifications of applicants;
 - (c) prescribing what proof of any fact, including evidence under oath, is to be furnished by an applicant;
 - (d) prescribing the rehabilitation services that may be approved;
 - (e) providing for the suspension or cancellation of rehabilitation services;
 - (f) providing for investigations respecting disabled persons who have applied for rehabilitation services or for whom rehabilitation services have been approved;
 - (g) prescribing the amounts to be paid to or on behalf of disabled persons for whom rehabilitation services are approved and the manner and times of payment;
 - (h) prescribing additional duties of the Co-ordinator;
 - (i) prescribing the records that shall be kept under this Ordinance;

- (j) prescribing forms; and
- (k) generally for carrying out the provisions of this Ordinance. 1968 (4th) c. 6, s. 9.

10. (1) Every person who violates a provision 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 six months or to both fine and imprisonment. 1968 (4th) c. 6, s. 10.

Offence and
penalty

CHAPTER S-1

SALE OF GOODS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Sale of Goods Ordinance*. R.O. 1958, c. 97, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance	Definitions
“action” includes counterclaim and set off ;	“action”
“buyer” means a person who buys or agrees to buy goods ;	“buyer”
“contract of sale” includes an agreement to sell as well as the sale ;	“contract of sale”
“delivery” means voluntary transfer of possession from one person to another ;	“delivery”
“document of title to goods” has the same meaning as it has in the <i>Factors Ordinance</i> ;	“document of title to goods”
“fault” means wrongful act or default ;	“fault”
“future goods” means goods to be manufactured or acquired by the seller after the making of the contract of sale ;	“future goods”
“goods” includes 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”
“property” means the general property in goods and not merely a special property ;	“property”
“quality of goods” includes their state or condition ;	“quality of goods”
“sale” includes a bargain and sale as well as a sale and delivery ;	“sale”
“seller” means a person who sells or agrees to sell goods ;	“seller”
“specific goods” means goods identified and agreed upon at the time a contract of sale is made ;	“specific goods”
“warranty” means an agreement with reference to goods that are the subject of a contract of sale but collateral to the	“warranty”

main purpose of such contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(2) A thing is deemed to be done "in good faith" within the meaning of this Ordinance when it is in fact done honestly, whether it is done negligently or not.

(3) A person is deemed to be insolvent within the meaning of this Ordinance who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

(4) Goods are in a "deliverable state" within the meaning of this Ordinance when they are in such a state that the buyer would under the contract be bound to take delivery of them. R.O. 1958, c. 97, s. 2.

PART I

FORMATION OF THE CONTRACT

CONTRACT OF SALE

Sale and agreement to sell

3. (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price; there may be a contract of sale between one part owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. R.O. 1958, c. 97, s. 3.

Capacity to buy and sell

4. (1) Subject to subsection (2), capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property.

Proviso

(2) Where necessaries are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or

drunkenness is incompetent to contract he is bound to pay a reasonable price therefor.

(3) The expression "necessaries" in subsection (2) means goods suitable to the condition in life of the infant, minor or other person and to his actual requirements at the time of the sale and delivery. R.O. 1958, c. 97, s. 4.

FORMALITIES OF THE CONTRACT

5. (1) Subject to the provisions of this Ordinance and of any Ordinance in that behalf a contract of sale may be made in writing, either with or without seal, or by word of mouth or partly in writing and partly by word of mouth or may be implied from the conduct of the parties.

Contract of sale
how made

(2) Nothing in this section affects the law relating to corporations. R.O. 1958, c. 97, s. 5.

Proviso

6. (1) A contract for the sale of goods of the value of fifty dollars or upwards is not enforceable by action unless the buyer accepts part of the goods so sold and actually receives the same or gives something in earnest to bind the contract or in part payment or unless some note or memorandum in writing of the contract is made and signed by the party to be charged or his agent in that behalf.

Contract of sale
for fifty dollars
and upwards

(2) This section applies to every contract for the sale of goods of the value of fifty dollars or upwards notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of the contract be actually made, procured or provided or fit or ready for delivery or some act may be requisite for the making or completing thereof or rendering them fit for delivery.

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods that recognizes a pre-existing contract of sale whether there be an acceptance in performance of the contract or not. R.O. 1958, c. 97, s. 6.

SUBJECT MATTER OF CONTRACT

7. (1) The goods that form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods".

Existing or
future goods

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency that may or may not happen.

(3) Where by a contract of sale the seller purports to effect a present sale of future goods the contract operates as an agreement to sell the goods. R.O. 1958, c. 97, s. 7.

Goods which have perished

8. (1) Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void. R.O. 1958, c. 97, s. 8.

Goods perishing before sale but after agreement to sell

9. (1) Where there is an agreement to sell specific goods and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer the agreement is thereby avoided. R.O. 1958, c. 97, s. 9.

THE PRICE

Ascertainment of price

10. (1) The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer is bound to pay a reasonable price; what is a reasonable price is a question of fact dependent on the circumstances of each particular case. R.O. 1958, c. 97, s. 10.

Agreement to sell at valuation

11. (1) Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and the third party cannot or does not make such valuation the agreement is avoided; but where the goods or any part thereof have been delivered to and appropriated by the buyer, he is bound to pay a reasonable price therefor.

(2) Where the third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. R.O. 1958, c. 97, s. 11.

CONDITIONS AND WARRANTIES

Stipulation as to time

12. (1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are deemed not to be of the essence of a contract of sale; whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

(2) In a contract for sale "month" means *prima facie* calendar month. R.O. 1958, c. 97, s. 12.

13. (1) Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition or may elect to treat the breach of the condition as a breach of warranty, and not as a ground for treating the contract as repudiated.

When condition to be treated as warranty

(2) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated, depends in each case on the construction of the contract; a stipulation may be a condition though called a warranty in the contract.

(3) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof or where the contract is for specific goods the property in which has passed to the buyer, the breach of a condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated unless there is a term of the contract expressed or implied to that effect.

(4) Nothing in this section affects a condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise. R.O. 1958, c. 97, s. 13.

14. (1) In a contract of sale unless the circumstances of the contract are such as to show a different intention there is

Implied undertaking as to title, etc.

- (a) an implied condition on the part of the seller that in the case of a sale he has a right to sell the goods and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;
- (b) an implied warranty that the buyer shall have and enjoy quiet possession of the goods; and
- (c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made. R.O. 1958, c. 97, s. 14.

15. (1) When there is a contract for the sale of goods by description, there is an implied condition that the goods shall correspond with the description; and if the sale is by sample as well as by description, it is not sufficient that the bulk of

Sale by description

the goods corresponds with the sample if the goods do not also correspond with the description. R.O. 1958, c. 97, s. 15.

Implied conditions as to quality or fitness

16. (1) Subject to the provisions of this Ordinance and of any Ordinance in that behalf there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale except as follows:

- (a) 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 that it is in the course of the seller's business to supply, whether he is the manufacturer or not, there is an implied condition that the goods shall be reasonably fit for such purpose;
- (b) where goods are bought by description from a seller who deals in goods of that description, whether he is the manufacturer or not, there is an implied condition that the goods shall be of merchantable quality; except that if the buyer has examined the goods there is no implied condition as regards defects that such examination ought to have revealed;
- (c) an implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade; and
- (d) an express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith. R.O. 1958, c. 97, s. 16.

SALE BY SAMPLE

Sale by sample

17. (1) A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect.

- (2) In the case of a contract for sale by sample,
 - (a) there is an implied condition that the bulk shall correspond with the sample in quality;
 - (b) there is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample; and
 - (c) there is an implied condition that the goods shall be free from any defect rendering them unmerchantable that would not be apparent on reasonable examination of the sample. R.O. 1958, c. 97, s. 17.

PART II

EFFECTS OF THE CONTRACT

TRANSFER OF PROPERTY AS BETWEEN SELLER AND BUYER

18. (1) Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained. R.O. 1958, c. 97, s. 18. Goods must be ascertained

19. (1) Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. Property passes when intended to pass

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. R.O. 1958, c. 97, s. 19.

20. (1) Unless a different intention appears the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer: Rules for ascertaining intention

Rule I.—Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both is postponed.

Rule II.—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing is done and the buyer has notice thereof.

Rule III.—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing is done and the buyer has notice thereof.

Rule IV.—When goods are delivered to the buyer on approval or “on sale or return” or other similar terms the property therein passes to the buyer

(a) when he signifies his approval or acceptance to the seller or does any other act adopting the transaction, or

- (b) where he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection and a time has been fixed for the return of the goods, on the expiration of such time; and where no time has been fixed, on the expiration of a reasonable time; what is a reasonable time is a question of fact.

Rule V.—(1) Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the assent of the buyer or by the buyer with the assent of the seller the property in the goods thereupon passes to the buyer; such assent may be expressed or implied and may be given either before or after the appropriation is made;

(2) Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee, whether named by the buyer or not, for the purpose of transmission to the buyer and does not reserve the right of disposal he is deemed to have unconditionally appropriated the goods to the contract. R.O. 1958, c. 98, s. 20.

Reservation of
right of disposal

21. (1) Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract the seller may by the terms of the contract or appropriation reserve the right of disposal of the goods until certain conditions are fulfilled; in such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

(2) Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent the seller is *prima facie* deemed to have the right of disposal.

(3) Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him. R.O. 1958, c. 97, s. 21.

Risk *prima facie*
passes with
property

22. (1) Subject to subsections (2) and (3), unless otherwise agreed the goods remain at the seller's risk until the property therein is transferred to the buyer; but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not.

(2) Where delivery has been delayed through the fault of either buyer or seller, the goods are at the risk of the party in fault as regards any loss that might not have occurred but for such fault.

(3) Nothing in this section affects the duties or liabilities of either seller or buyer as a bailee or custodian of the goods of the other party. R.O. 1958, c. 97, s. 22.

TRANSFER OF TITLE

23. (1) Subject to this Ordinance, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

Sale by person
not owner

(2) Nothing in this Ordinance affects

- (a) the provisions of the *Factors Ordinance* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof, or
- (b) the validity of any contract or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. R.O. 1958, c. 97, s. 23.

24. (1) When the seller of goods has a voidable title thereto but his title has not been voided at the time of sale the buyer acquires a good title to the goods if he buys them in good faith and without notice of the seller's defect of title. R.O. 1958, c. 97, s. 24.

Sale under
voidable title

25. (1) When a person having sold goods continues or is in possession of the goods or of the document 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 them in good faith and without notice of the previous sale has the same effect as if the person making the delivery or transfer was expressly authorized by the owner of the goods to make it.

Seller or buyer
in possession
after sale

(2) 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 them 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 the consent of the owner.

(3) In this section the term "mercantile agent" has the same meaning as in the *Factors Ordinance*. R.O. 1958, c. 97, s. 25.

PART III

PERFORMANCE OF THE CONTRACT

Duties of seller and buyer

26. (1) It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. R.O. 1958, c. 97, s. 26.

Payment and delivery are concurrent conditions

27. (1) Unless otherwise agreed delivery of the goods and payment of the price of concurrent conditions, that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods. R.O. 1958, c. 97, s. 27.

Rules as to delivery

28. (1) Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract expressed or implied between the parties; apart from any such contract express or implied the place of delivery is the seller's place of business if he has one and, if not, his residence; but if the contract is for the sale of specific goods that to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed, the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of the sale are in possession of a third person, there is no delivery by seller to buyer unless and until the third person acknowledges to the buyer that he holds the goods on his behalf.

(4) Nothing in this section affects the operation of the issue or transfer of any document of title to goods.

(5) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour; what is a reasonable hour is a question of fact.

(6) Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller. R.O. 1958, c. 97, s. 28.

29. (1) Where the seller delivers to the buyer a quantity of goods less than he contracted to sell the buyer may reject them; but if the buyer accepts the goods so delivered he is bound to pay for them at contract rate. Delivery of
wrong quantity

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest or he may reject the whole; when the buyer accepts the whole of the goods so delivered he is bound to pay for them at the contract rate.

(3) Where the seller delivers to the buyer goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods that are in accordance with the contract and reject the rest or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties. R.O. 1958, c. 97, s. 29.

30. (1) Unless otherwise agreed the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments that are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. R.O. 1958, c. 97, s. 30.

31. (1) Where in pursuance of a contract of sale the seller is authorized or required to send the goods to the buyer, delivery of the goods to a carrier, whether named by the buyer or not for the purpose of transmission to the buyer is *prima facie* deemed to be a delivery of the goods to the buyer. Delivery to
carrier

(2) Unless otherwise authorized by the buyer, the seller is bound to make such contract with the carrier on behalf of the

buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case; when the seller omits to do so and the goods are lost or damaged in course of transit the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages.

(3) Unless otherwise agreed where goods are sent by the seller to the buyer by a route involving sea transit under circumstances in which it is usual to insure, the seller is bound to give such notice to the buyer as may enable him to insure them during their sea transit; and where the seller fails to do so the goods are deemed to be at his risk during such sea transit. R.O. 1958, c. 97, s. 31.

Risk where
goods delivered
at distant place

32. (1) Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold the buyer is nevertheless bound, unless otherwise agreed, to take any risk of deterioration in the goods necessarily incident to the course of transit. R.O. 1958, c. 97, s. 32.

Buyer's right of
examining goods

33. (1) Where goods are delivered to the buyer that he has not previously examined he is deemed not to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed when the seller tenders delivery of goods to the buyer he is bound on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. R.O. 1958, c. 97, s. 33.

Acceptance

34. (1) The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them that is inconsistent with the ownership of the seller or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them. R.O. 1958, c. 97, s. 34.

Buyer not bound
to return
rejected goods

35. (1) Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them having the right so to do, he is not bound to return them to the seller but it is sufficient if he intimates to the seller that he refuses to accept them. R.O. 1958, c. 97, s. 35.

Liability of
buyer for
neglecting or
refusing delivery
of goods

36. (1) When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer

does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods.

(2) Nothing in this section affects the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. R.O. 1958, c. 97, s. 36.

PART IV

RIGHTS OF UNPAID SELLER AGAINST THE GOODS

37. (1) The seller of the goods is deemed to be an "unpaid seller" within the meaning of this Ordinance "Unpaid seller" defined

- (a) when the whole of the contract price has not been paid or tendered; or
- (b) when a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this Part the term "seller" includes a person who is in the position of a seller; for example, an agent of the seller to whom the bill of lading has been endorsed or a consignor or agent who has himself paid or is directly responsible for the price. R.O. 1958, c. 97, s. 37.

38. (1) Subject to the provisions of this Ordinance and of any Ordinance in that behalf, notwithstanding that the property in the goods may have passed to the buyer the unpaid seller of goods as such has by implication of law, Unpaid seller's rights

- (a) in lien on the goods or right to retain them for a price while he is in possession of them;
- (b) in the case of the insolvency of the buyer a right of stopping the goods in transit after he has parted with the possession of them; and
- (c) a right of re-sale as limited by this Ordinance.

(2) Where the property in goods has not passed to the buyer the unpaid seller has in addition to his other remedies a right of withholding delivery similar to and co-extensive with his rights of lien and stoppage *in transitu* where the property has passed to the buyer. R.O. 1958, c. 97, s. 38.

UNPAID SELLER'S LIEN

Seller's lien **39.** (1) Subject to this Ordinance the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price, in any of the following cases, namely,

- (a) where the goods have been sold without any stipulation as to credit;
- (b) where the goods have been sold on credit but the term of credit has expired; and
- (c) where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. R.O. 1958, c. 97, s. 39.

Part delivery **40.** (1) Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention of the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention. R.O. 1958, c. 97, s. 40.

Termination of lien **41.** (1) The unpaid seller of goods loses his lien or right of retention thereon

- (a) when he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;
- (b) when the buyer or his agent lawfully obtains possession of the goods; or
- (c) by waiver thereof.

(2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods. R.O. 1958, c. 97, s. 41.

STOPPAGE IN TRANSITU

Right of stoppage in transitu **42.** (1) Subject to this Ordinance, when the buyer of goods becomes insolvent the unpaid seller who has parted with the possession of the goods has the right of stopping them *in transitu*; that is to say, he may resume possession of the goods as long as they are in course of transit and may retain them until payment or tender of the price. R.O. 1958, c. 97, s. 42.

Duration of transit **43.** (1) Goods are deemed to be in course of transit from the time when they are delivered to a carrier, by land or

water, or other bailee for the purpose of transmission to the buyer, until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee.

(2) When the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

(3) Where, after the arrival of the goods at the appointed destination, the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) Where the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is deemed not to be at an end even if the seller has refused to receive them back.

(5) Where goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf the remainder of the goods may be stopped *in transitu* unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods. R.O. 1958, c. 97, s. 43.

44. (1) The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are; such notice may be given either to the person in actual possession of the goods or to his principal; in the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent delivery to the buyer.

How stoppage *in transitu* effected

(2) When notice of stoppage *in transitu* is given by the seller to the carrier or other bailee in possession of the goods he must redeliver the goods to or according to the direction of

the seller; the expenses of such redelivery are to be borne by the seller. R.O. 1958, c. 97, s. 44.

RESALE BY BUYER OR SELLER

Effect of sub-sale or pledge by buyer

45. (1) Subject to this Ordinance the unpaid seller's right of lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto.

(2) Where a document of title of goods has been lawfully transferred to any 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 then, if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee. R.O. 1958, c. 97, s. 45.

Sale not generally rescinded by lien or stoppage *in transitu*

46. (1) Subject to this section a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

(2) Where an unpaid seller who has exercised his rights of lien or retention or stoppage *in transitu* resells the goods the buyer acquires a good title thereto as against the original buyer.

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price, the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

(4) Where the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default resells the goods the original contract of sale is thereby rescinded but without prejudice to any claim the seller may have for damages. R.O. 1958, c. 97, s. 46.

PART V

ACTIONS FOR BREACH OF THE CONTRACT

REMEDIES OF THE SELLER

47. (1) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract the seller may maintain an action against him for the price of the goods. Action for price

(2) Where under a contract of sale the price is payable on a certain day, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

(3) Nothing in this section shall be construed to prejudice the right of the seller to recover interest on the price from the date of tender of the goods or from the date on which the price was payable, as the case may be. R.O. 1958, c. 97, s. 47.

48. (1) Where the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may maintain an action against him for damages for non-acceptance. Damages for non-acceptance

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or if no time was fixed for acceptance then at the time of the refusal to accept. R.O. 1958, c. 97, s. 48.

REMEDIES OF THE BUYER

49. (1) Where the seller wrongfully neglects or refuses to deliver the goods to the buyer the buyer may maintain an action against the seller for damages for non-delivery. Damages for non-delivery

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascer-

tained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered or if no time was fixed then at the time of the refusal to deliver. R.O. 1958, c. 97, s. 49.

Specific performance

50. (1) In any action for breach of contract to deliver specific or ascertained goods the court may if it thinks fit on the application of the plaintiff by its judgment or decree direct that the contract shall be performed specifically without giving the defendant the option of retaining the goods on payment of damages; the judgment or decree may be unconditional or upon such terms and conditions as to damages, payment of the price and otherwise as to the court may seem just and the application by the plaintiff may be made at any time before judgment or decree. R.O. 1958, c. 97, s. 50.

Remedy for breach of warranty

51. (1) Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty, the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may

- (a) set up against the seller the breach of warranty in diminution or extinction of the price, or
- (b) maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

(3) In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. R.O. 1958, c. 97, s. 51.

Interest and special damages

52. (1) Nothing in this Ordinance affects the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable or to recover money paid where the consideration for the payment of it has failed. R.O. 1958, c. 97, s. 52.

PART VI

SUPPLEMENTARY

53. (1) Where any right, duty or liability would arise under a contract of sale by implication of law it may be negatived or varied by express agreement or by the course of dealing between the parties or by usage if the usage is such as to bind parties to the contract. R.O. 1958, c. 97, s. 53.

Exclusion of implied terms and conditions

54. (1) Where by this Ordinance any reference is made to a reasonable time the question as to what is a reasonable time is a question of fact. R.O. 1958, c. 97, s. 54.

Reasonable time a question of fact

55. (1) Where any right, duty or liability is declared by this Ordinance it may unless otherwise by this Ordinance provided be enforced by action. R.O. 1958, c. 97, s. 55.

Rights, etc., enforceable by action

56. (1) Where goods are put up for sale by auction in lots each lot is *prima facie* deemed to be the subject of a separate contract of sale.

Auction sale

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner; until such announcement is made any bidder may retract his bid.

(3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller it is not lawful for the seller to bid himself or to employ any person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person; any sale contravening this rule may be treated as fraudulent by the buyer.

(4) A sale by auction may be notified to be subject to a reserve or upset price and the right to bid may also be reserved expressly by or on behalf of the seller; where a right to bid is expressly reserved, but not otherwise, the seller or any one person on his behalf may bid at the auction. R.O. 1958, c. 97, s. 56.

57. (1) Where a buyer has elected to accept goods that he might have rejected and to treat a breach of contract as only giving rise to a claim for damages he may in an action by the seller for the price be required, in the discretion of the court before which the action depends, to consign or pay into court the price of the goods or part thereof or to give other reasonable security for the due payment thereof. R.O. 1958, c. 97, s. 57.

Payment into court when breach of warranty alleged

Existing laws
preserved subject
hereto

58. (1) The rules of the common law including the law merchant except insofar as they are inconsistent with the express provisions of this Ordinance and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress, coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods.

(2) Nothing in this Ordinance affects an enactment relating to bills of sale or any enactment relating to the sale of goods except as expressly provided by this Ordinance.

(3) The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale that is intended to operate by way of mortgage, pledge, charge or other security. R.O. 1958, c. 97, s. 58.

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

CHAPTER S-2

SAW LOGS DRIVING ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Saw Logs Driving Ordinance*. R.O. 1958, c. 98, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“logs” includes saw logs, timber, posts, ties, cordwood and other parts of trees; “logs”

“water” means any lake, pond, river, creek and stream in the Territory. R.O. 1958, c. 98, s. 2. “water”

3. (1) Any person putting or causing to be put logs into any water for the purpose of floating them in, upon or down the water, shall make all reasonable endeavours and put on a sufficient force of men to break jams of the logs and clear them from the banks and shores with reasonable despatch, and run and drive them so as not to delay or hinder unnecessarily the removal, floating, running or driving of other logs, or to obstruct unnecessarily the floating or navigation of the water. R.O. 1958, c. 98, s. 3. Persons floating logs in river, etc., not to obstruct floating or navigation

4. (1) Where any person neglects to comply with section 3, any other person who desires to float, run or drive logs in, upon or down water and whose logs would, because of such neglect, be obstructed may break jams of the first mentioned person’s logs, clear that person’s logs from banks and shores and float, run and drive them in, upon or down the water. In case of neglect person obstructed may clear river, etc.

(2) A person who acts pursuant to subsection (1) shall do so with reasonable economy and despatch and shall take care not to leave logs on banks or shores. R. O. 1958, c. 98, s. 4. Person clearing obstruction to use due care

5. (1) A person who acts pursuant to section 4 has a lien upon the logs for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of the logs, and may take and keep possession of them or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending a decision by arbitration. R.O. 1958, c. 98, s. 5. Person clearing obstruction has lien for expenses

Provision when logs of several owners cannot conveniently be separated

6. (1) When logs of any person upon or in water or the banks or shores of water are so intermixed with logs of another person that they cannot be conveniently separated for the purposes of being floated in, upon or down the water, each person who owns or controls part of the intermixed logs shall make adequate provisions, and put on a fair proportion of the men required to break jams of such intermixed logs, and to clear them from the banks and shores with reasonable despatch, and to float, run and drive them in, upon and down the water, and the costs and expenses thereof shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration. R.O. 1958, c. 98, s. 6.

Provision when owner of any portion of logs in default

7. (1) Where any person whose logs are intermixed with those of any other person neglects to comply with section 6, the other person may put on a sufficient number of men to do the things neglected and may break jams of intermixed logs, and clear the logs from the banks and shores of such water, and float, run and drive them in, upon and down the water.

Person acting under this section to employ due economy

(2) A person who acts pursuant to subsection (1) shall do so with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores. R.O. 1958, c. 98, s. 7.

Lien on logs

8. (1) A person who does any act under section 7 has a lien upon the logs owned or controlled by the person guilty of the neglect mentioned in that section for a fair proportion of the charges and expenses of breaking the jams, and clearing, floating, running, driving, booming and keeping possession of the intermixed logs, and he may take and keep possession of the logs, or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses, pending a decision by arbitration. R.O. 1958, c. 98, s. 8.

Separation of logs

9. (1) When logs of any person, upon or in water, or the banks or shores of water, are intermixed with logs of another person, any person whose logs are intermixed may, at any time during the drive, require his logs to be separated from the other logs at some suitable and convenient place, and after such separation he shall secure them at his own cost and expense, in such manner as to allow free passage for the other logs, but when any logs so intermixed reach their place of original destination, if known, they shall be separated from

Proviso

the other logs, and after such separation the owner shall secure them at his own cost and expense. R.O. 1958, c. 98, s. 9.

10. (1) Each person who owns or controls part of the intermixed logs shall make adequate provisions and put on a fair proportion of the men required to make a separation of such logs, and the cost and expense to such separation shall be borne by the parties in such proportions as they may agree upon, and in default of agreement, as may be determined by arbitration. R.O. 1958, c. 98, s. 10.

Expenses of separation to be shared

11. (1) Where any person whose logs are intermixed with those of any other person neglects to comply with section 9 when a separation is made, the other person may put on a sufficient number of men to do the things neglected, and the logs owned or controlled by the person guilty of such neglect are, in such a case, subject to a lien in favour of the person who so puts on the men for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of the logs, or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses, pending a decision by arbitration. R.O. 1958, c. 98, s. 1.

Provision when owner does not provide for his share of the work

12. (1) A person who takes possession of logs under section 5, 8 or 11 shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of them at or above such place.

Person who takes possession of logs under this Ordinance to use reasonable care not to take logs beyond destination

(2) A person who has a lien under section 5, 8 or 11 shall forthwith notify the owner or the person who controls the logs, if known, of the whereabouts of the logs and if satisfactory security be given in accordance with subsection (3), for the amount of charges and expenses, or a proper proportion thereof, due by such owner or person, possession of the logs shall be given up to him.

Lienholder to notify owner of logs

(3) The security referred to in subsection (2) may be by bond in Form A in Schedule I or by deposit of money or in such other way as the parties may agree upon. R.O. 1958, c. 98, s. 12.

Form of security

13. (1) Where a person under the assumed authority of this Ordinance and without just cause takes possession of or detains logs of another person, or, after refusing reasonable security, detains such logs, or has through want of reasonable

Damages where person has wrongfully detained logs or refused security

care left logs of another person on banks or shores, or has taken logs of another person beyond the place of their original destination, he is liable to damages as determined by arbitration. R.O. 1958, c. 98, s. 13.

Lien under this Ordinance subject to lien for tolls

14. (1) A lien given by this Ordinance is subject to any lien of any person for tolls or dues, for the use of any works or improvements made use of in running or driving logs. R.O. 1958, c. 98, s. 14.

Disputes to be settled by arbitration

15. (1) Claims, disputes and differences arising under this Ordinance shall be determined by arbitration and not by action. R.O. 1958, c. 98, s. 15.

Appointment of arbitrators

16. (1) A person who claims

- (a) that another person has not complied with the provisions of this Ordinance,
- (b) payment of any charges or expenses under this Ordinance,
- (c) a lien upon any logs, or
- (d) damages under section 13,

shall give to such other person notice in writing, stating the substance of the claim made, and appointing an arbitrator, and calling upon such other person to appoint an arbitrator within ten days after the service of the notice.

(2) If a person who receives a notice under subsection (1) does not within ten days appoint an arbitrator, the person who gave the notice may apply to a judge to appoint a second arbitrator, and the judge shall appoint such arbitrator.

(3) The two arbitrators appointed under this section shall, within ten days after the appointment of the second arbitrator, appoint a third, and if they do not do so either party may apply to a judge to appoint the third arbitrator, and the judge shall appoint such arbitrator. R.O. 1958, c. 98, s. 16.

Parties may agree to have only one arbitrator

17. (1) The parties may agree that the arbitration shall be by one arbitrator instead of by three, and they may either agree upon the arbitrator or may apply to a judge to appoint one and such arbitrator shall have all the powers given under this Ordinance to arbitrators. R.O. 1958, c. 98, s. 17.

Counterclaim

18. (1) A person upon whom a notice is served under section 16 may at any time before arbitration, or with leave of the arbitrators, during the arbitration, give the claimant notice in writing by way of counterclaim, stating the sub-

stance of any claim arising under this Ordinance which such person may have against the claimant and such counterclaim shall be determined in the arbitration and an award made in respect of it. R.O. 1958, c. 98, s. 18.

19. (1) Where the award of the arbitrators is in favour of a person who has a lien on logs under this Ordinance such person may sell the logs in the manner, time and place determined by the arbitrators.

Sale by person having lien

(2) Money received from a sale pursuant to subsection (1) shall be expended first in payment of the charges and expenses connected with the sale, then in satisfaction of the amount owing on the lien and costs of arbitration and the balance, if any, shall be transmitted to the owner of the logs. R.O. 1958, c. 98, s. 19.

How money from sale apportioned

20. (1) A claim arising under this Ordinance is barred unless commenced under section 16 or by counterclaim under section 18 within one year after it arises. R.O. 1958, c. 98, s. 20.

Limitations

EXEMPTION

21. (1) The Commissioner may declare that any part of the Territory or any water therein is exempt from the operation of this Ordinance, and thereupon such part or water shall be exempt.

Commissioner may exempt part of Territory from Ordinance

(2) The Commissioner may again bring within the operation of this Ordinance any part of the Territory or water exempted from its operation pursuant to subsection (1). R.O. 1958, c. 98, s. 21.

Territory exempt may be again brought under Ordinance

SCHEDULE I

FORM A

(Section 12)

Know all men by these presents that we (*here insert names of obligators, being the owner of the logs and at least one sufficient surety; or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties*) are held and firmly bound unto A.B., (*here insert the name of the person claiming the lien*) in the penal sum of (*double the amount of the claim*) \$ to be paid to the said A.B., his executors, administrators and assigns, for which payment well and truly to be made, we, and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this day of A.D. 19

Whereas, the said A.B., claiming to act under the authority of the *Saw Logs Driving Ordinance*, has taken possession of certain (*saw logs, timber, etc., as the case may be*) owned or controlled by and claims a lien thereon for the sum of \$, under the provisions of section (*5, 8 or 11, as the case may be*) of the said Ordinance.

And, whereas, this bond is given as security for payment to the said A.B., of such sum as he may be held entitled to by arbitration pursuant to the said Ordinance, and of any costs and expenses of the arbitration which may become payable to him.

Now the condition of the above obligation is such that if the said , his executors or administrators do pay to the said A.B., his executors, administrators or assigns, such sum as may be determined by arbitration pursuant to the said Ordinance, to be payable to the said A.B., his executors, administrators or assigns, for charges and expenses under section (*5, 8 or 11, as the case may be*) of said Ordinance, and also such sum as may become payable to the said A.B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered
in the presence of

X.Y.

C.D. (Seal)

F.G. (Seal)

R.O. 1958, c. 98, Form A.

CHAPTER S-3

SCHOOL ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *School Ordinance*. Short title
1962 (1st) c. 7, s. 1.

INTERPRETATION

2. (1) In this Ordinance Definitions

“school” means a school to which this Ordinance applies; “school”

“Superintendent” means the Superintendent of Schools for the Yukon Territory appointed pursuant to section 5; “Superintendent”

“taxpayer” means a person whose name appears on the current assessment roll of the Territory or of a municipality or, in the case of a municipality having no assessment roll, a person who owns assessable property in that municipality and shall include a person in respect of whose children an annual grant in lieu of school taxes is paid by the Federal Government. 1962 (1st) c. 7, s. 2. “taxpayer”

CLASSIFICATION OF SCHOOLS

3. (1) The school system of the Yukon Territory shall consist of Classification of schools in Yukon Territory

(a) territorial schools, and

(b) district schools. 1962 (1st) c. 7, s. 3.

4. (1) Territorial schools may be classed as Classes of territorial schools

(a) Yukon public schools, where they are established pursuant to section 8 and operated for the education of children that are not of the Roman Catholic faith, and

(b) Yukon separate schools, where they are established pursuant to section 8 and operated for the education of children of the Roman Catholic faith.

(2) District schools may be classed as Classes of district schools

(a) public schools where they are established pursuant to section 15, and

(b) separate schools where they are established pursuant to section 18. 1962 (1st) c. 7, s. 4.

SUPERINTENDENT AND DEPUTY SUPERINTENDENT

Superintendent
and Deputy
Superintendent

5. (1) The Commissioner shall appoint a Superintendent of Schools and a Deputy Superintendent of Schools for the Yukon Territory. 1962 (1st) c. 7, s. 5.

Superintendent's
duties

6. (1) It shall be the duty of the Superintendent

- (a) to visit all schools and inquire into and report to the Commissioner upon the progress and attendance of the pupils, the discipline and management of schools, the system of education pursued, the mode of keeping school registers, the condition of school buildings and premises, and generally upon all other matters as required by the Commissioner;
- (b) subject to the approval of the Commissioner, to make and establish rules and regulations for the conduct of schools;
- (c) subject to this Ordinance, to prescribe the duties of teachers;
- (d) to ensure that teachers are provided with the books necessary for keeping proper records of their classes;
- (e) to ensure that the school houses, school grounds, school furniture, fences and all school property are properly maintained;
- (f) to ensure that school wells and all school grounds and premises are kept in proper sanitary condition and that due provision is made for properly lighting, heating, ventilating and cleaning the school grounds and school premises and report to the Commissioner with respect thereto;
- (g) to ensure that wholesome drinking water is provided for children during school hours;
- (h) to regulate the management of territorial school libraries;
- (i) subject to the approval of the Commissioner, to select and provide all reference books for the use of pupils and teachers in territorial schools and all globes, maps, charts and other apparatus and supplies as are required for the proper instruction of pupils in the schools;
- (j) to require that no text books or apparatus not approved by the Superintendent be used in any school;
- (k) to suspend or dismiss any teacher in a territorial school for gross misconduct, neglect of duty or refusal or neglect to obey any of the Superintendent's lawful orders or any regulation of the Commissioner;

- (l) to insure that the schools are conducted in accordance with the provisions of this Ordinance;
- (m) to prescribe the age at which pupils may be admitted to grade one;
- (n) to investigate disputes arising between parents and a teacher or between children and a teacher;
- (o) to see that the law with reference to compulsory education and truancy is observed;
- (p) to report annually to the Commissioner and the Council of the Yukon Territory on the schools in the Territory, showing
 - (i) the number of pupils taught in each school,
 - (ii) the average attendance in each school,
 - (iii) the number of his official visits to each school,
 - (iv) the salaries of the teachers,
 - (v) the qualifications of each teacher,
 - (vi) the number of teachers of each sex,
 - (vii) any other information he may possess respecting the schools that he feels should be brought to the attention of the Commissioner and the Council of the Yukon Territory, and
 - (viii) any statements and suggestions for improving the schools and school laws and promoting education generally that he deems useful and expedient; and
 - (ix) such report shall be tabled at the next Council session,
- (q) to prepare suitable forms and give any instructions he considers necessary for the making of all reports required by this Ordinance;
- (r) to investigate any complaint made to him respecting the state of education in any part of the Territory or the conduct of any school and report thereon to the Commissioner;
- (s) to close any territorial school when the average regular attendance therein falls below seven; and
- (t) to perform any other duties assigned to him by the Commissioner;
- (u) with respect to a school established under Part II of this Ordinance the Superintendent shall exercise all the powers and perform all the duties described in this section except those which are by the provisions of Part II of this Ordinance especially given to or imposed upon the Board of such a school. 1962 (1st) c. 7, s. 6.

7. (1) The Deputy Superintendent shall perform any duties assigned to him by the Superintendent and if the

Deputy Superintendent's duties

Superintendent is absent or unable to act or if the office is vacant, the Deputy Superintendent has and may exercise all the powers of the Superintendent. 1962 (1st) c. 7, s. 7.

PART I

TERRITORIAL SCHOOLS

Yukon special schools

8. (1) The Commissioner may establish schools at any place in the Territory. 1962 (1st) c. 7, s. 8.

9. (1) The Commissioner may operate and maintain schools established by him pursuant to section 8 for the education of children of the Roman Catholic faith separate and apart from the children that are not of the Roman Catholic faith. 1962 (1st) c. 7, s. 9.

10. (1) Subject to subsection (2), the Commissioner may, on behalf of the Yukon Territory, enter into an agreement with the trustees of a school district transferring to them, on such terms and conditions as may be agreed upon by the Commissioner, any school site together with school buildings and residential accommodation for lay teachers maintained in connection therewith provided in that school district by the Government of the Yukon Territory.

(2) An agreement entered into by the Commissioner pursuant to subsection (1) with the trustees of a separate school district shall be on terms not less favourable than if the agreement was entered into with the trustees of a public school district. 1962 (1st) c. 7, s. 10.

Appointment of principal and vice-principal

11. (1) The Superintendent may appoint a principal for every territorial school in which more than one teacher is employed and a vice-principal for every school that has more than two hundred and fifty pupils.

Duties of principal

(2) The principal of a territorial school shall be responsible for the administration, organization and general discipline of the school for which he is appointed.

Duties and powers of vice-principal

(3) The vice-principal of a territorial school shall perform the duties assigned to him by the principal and if the principal is absent or unable to act, or if the office is vacant, the vice-principal has and may exercise all the powers of the principal. 1962 (1st) c. 7, s. 11.

Commissioner to appoint teachers

12. (1) The Commissioner shall, on the recommendation of the Superintendent, appoint teachers to each territorial school, due consideration being given to the recommenda-

tions regarding teacher entitlement contained in the report of the Committee on Education 1960. 1962 (1st) c. 7, s. 12.

13. (1) In any area served by a territorial school the resident adults may elect three of their number to constitute an Advisory Committee whose function shall be to make to the Superintendent and to the Territorial Councillor or Councillors directly concerned in the operation of that school recommendations

- (a) with respect to the care, management and supervision of the property of that school;
- (b) for promoting harmonious relations between parents and teachers and children and teachers in that school; and
- (c) for the improvement or extension of the education facilities for residents of the community in which that school is located. 1962 (1st) c. 7, s. 13.

PART II

DISTRICT SCHOOLS

14. (1) In this Part

	Definition
“Board” means the Board of school trustees of a school district;	“Board”
“school” means a district school established under this Part;	“school”
“returning officer” means a returning officer appointed pursuant to section 19. 1962 (1st) c. 7, s. 14.	“returning officer”

15. (1) The Commissioner may on receipt of a petition signed by not less than three taxpayers resident in

	Establishment of a school district
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- (a) a municipality, or
- (b) an area of not more than twenty-five square miles that is outside a municipality and in which there are resident not less than four taxpayers and fifteen children between the ages of five and sixteen years,

establish in that municipality or area a school district. 1962 (1st) c. 7, s. 15.

16. (1) The petition mentioned in section 15 shall state

	Contents of petition
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- (a) the religious faith, that is to say Protestant or Roman Catholic, of each of the petitioners;
- (b) the proposed name of the school district;
- (c) the proposed limits, location and approximate area of the proposed school district; and
- (d) the total number of taxpayers and the total number of children between the ages of five and sixteen years, of

the religious faith of the petitioners residing within the limits of the proposed district. 1962 (1st) c. 7, s. 16.

Petition to be sworn

17. (1) The petition described in section 15 shall be accompanied by the sworn declaration of one of the petitioners verifying the facts set forth therein. 1962 (1st) c. 7, s. 17.

Establishment of public and separate school districts

18. (1) Where the Commissioner is satisfied that the proposed school district contains

- (a) fifteen children of a faith other than the Roman Catholic faith and four residents who, on the establishment of a school district, will be liable for assessment for school taxes, he shall establish that district as a public school district, and
- (b) fifteen children of the Roman Catholic faith and four residents who, on the establishment of a school district will be liable for assessment for school taxes, he shall establish that district as a separate school district. 1962 (1st) c. 7, s. 18.

ELECTION OF SCHOOL TRUSTEES

Commissioner to appoint returning officer for district

19. (1) The Commissioner shall, on establishing a school district and as required from time to time, appoint a person who is qualified to vote at an election held under this Part as a returning officer for that district.

Commissioner to fix day for holding of first election

(2) The Commissioner shall fix a day for the holding of an election of the first three trustees for a district and such trustees shall hold office until the day in January next following when their successors are sworn in.

Trustees' term of office

(3) All trustees of a school district, other than the first trustees, shall hold office for two years.

(4) No decision of a Board of Trustees shall be made by a quorum, a majority of which is composed of persons in respect of whose children an annual grant in lieu of school taxes is paid by the Federal Government. 1962 (1st) c. 7, s. 19.

Notices as to nominations

20. (1) The returning officer shall within ten days from the date of notification of his appointment post notices for the nomination of candidates for the office of trustees in the form set out in Schedule I in five public places within the school district. 1962 (1st) c. 7, s. 20.

Qualifications of voters for public school trustees

21. (1) Subject to section 24, every taxpayer resident within a school district is qualified to vote at an election of public school trustees for that district if he

- (a) is a Canadian or other British subject of the full age of twenty-one years, and

(b) has fully paid his rates and taxes of all kinds before the day of nomination of candidates. 1962 (1st) c. 7, s. 21.

22. (1) Subject to section 24, every spouse of a taxpayer described in section 21 is qualified to vote at an election of public school trustees for a district if that spouse Idem

(a) is a Canadian or other British subject of the full age of twenty-one years, and

(b) is a resident of the school district. 1962 (1st) c. 7, s. 22.

23. (1) Every person described in section 21 or 22 who is of the Roman Catholic faith is qualified to vote at an election for school trustees for a separate school district. 1962 (1st) c. 7, s. 23. Qualifications of voters for separate school trustees

24. (1) A person of the Roman Catholic faith is not qualified to vote at an election of school trustees for a public school district if there is a separate school district in the same municipality or area. 1962 (1st) c. 7, s. 24.

25. (1) Except in the case of the first election held for school trustees for a separate school district, no person who votes at an election of school trustees for a public school district shall vote at the election of school trustees for a separate school district held in the same year. 1962 (1st) c. 7, s. 25. Persons not to vote in two elections

26. (1) The collector of taxes for a municipality or area containing a school district shall prepare a list alphabetically arranged of the names of all taxpayers and their spouses qualified to vote at an election of school trustees and shall certify such list. 1962 (1st) c. 7, s. 26. Voters list

27. (1) Subject to this Ordinance, a person is qualified to be a trustee of a school district if he is Qualifications of trustees

(a) qualified to vote at an election of school trustees for that district, and

(b) able to read and write in either the French or English language. 1962 (1st) c. 7, s. 27.

28. (1) No person who is a teacher at any school in the Territory shall be eligible to hold office as a school trustee. 1962 (1st) c. 7, s. 28. Teachers not to be trustees

29. (1) Every candidate for the office of school trustee shall be nominated in writing by two taxpayers of the district. Nominations

(2) Except in the case of the first election for trustees held in a district, the nomination papers for a candidate as school trustee shall be delivered to the returning officer not later Filing of nominations

than five o'clock in the afternoon of the second day of January or, if that date is a holiday, then before five o'clock of the next day thereafter that is not a holiday. 1962 (1st) c. 7, s. 29.

Election by
acclamation

30. (1) If the number of nominations of candidates for the office of school trustee do not exceed the number of trustees to be elected, the returning officer shall declare the persons nominated to be elected, and shall send to the Commissioner a report of their election together with the nomination papers of all persons nominated. 1962 (1st) c. 7, s. 30.

Polling places

31. (1) Where more nominations are received than the number of trustees to be elected, the returning officer shall provide one polling place for every two hundred and fifty voters and shall appoint a deputy returning officer and a polling clerk for each polling place. 1962 (1st) c. 7, s. 31.

Election proce-
dure

32. (1) Subject to this Part, an election held under this Part shall be conducted in the same manner as is provided in the *Municipal Ordinance* for an election of a member of a municipal council. 1962 (1st) c. 7, s. 32.

Date of election

33. (1) Subject to subsection (2), all elections for school trustees held under this Part after the first election in a school district shall be held on the twenty-first day after the day fixed for the nomination of candidates or if such day is a holiday on the next day thereafter that is not a holiday.

Where school
district in a
municipality

(2) If a school district is wholly within a municipality every nomination and election under this Part after the first election shall be held at the same time and place and before the same returning officer as the nomination and elections of members of the council for that municipality. 1962 (1st) c. 7, s. 33.

Oaths

34. (1) The returning officer, deputy returning officer and the polling clerks shall, before entering upon their respective duties, take and subscribe the oath set out in Schedule II. 1962 (1st) c. 7, s. 34.

Opening and
closing of polls

35. (1) On the day of an election under this Part the deputy returning officer shall open each poll at nine o'clock in the forenoon and keep it open until six o'clock in the afternoon.

Candidate's
agent

(2) Every candidate shall be entitled to be represented at each polling place by an agent who shall produce to the deputy returning officer his appointment signed by the candidate. 1962 (1st) c. 7, s. 35.

36. (1) The returning officer shall provide each deputy returning officer with

Supplies to be provided

- (a) a sufficient number of ballots in the form set out in Schedule III;
- (b) necessary material to mark the ballots;
- (c) a polling book which, with such variations as the provisions of this Ordinance make necessary, shall be in the form of the poll book used for an election of members of a municipal council; and
- (d) a copy of the instructions set out in Schedule IV.

(2) The poll clerk shall write in the poll book the name of each voter presenting himself at the poll for the purpose of voting.

Poll clerk to record voters

(3) When the name of any person presenting himself to vote is found upon the list of voters and when the proper entries respecting him have been made in the poll book, the deputy returning officer shall write his initials on the back of the ballot paper and deliver it to that person. 1962 (1st) c. 7, s. 36.

Deputy returning officer to initial ballots

37. (1) Where any objection is made to the right of any person to vote at an election of school trustees, the deputy returning officer shall require that person to take the oath set out in Schedule V before delivering a ballot paper to that person. 1962 (1st) c. 7, s. 37.

Voter's oath

38. (1) At the hour of six o'clock in the afternoon the deputy returning officer shall declare the poll closed and with the assistance of his poll clerk and in the presence of the candidates and their agents, or such of them as are then present, forthwith open the ballot boxes and proceed to examine and count the ballots therein.

Counting of ballots

(2) Every ballot paper

- (a) that is not initialed by the deputy returning officer,
- (b) on which votes are given to more candidates than are to be elected,
- (c) on which anything is written or marked that appears to have been put there for the purpose of enabling the ballot to be identified as a ballot of a particular voter,
- (d) that is unmarked, or
- (e) from which is uncertain for which candidates the voter has voted,

Ballots not to be counted

shall be void and shall not be counted. 1962 (1st) c. 7, s. 38.

39. (1) A deputy returning officer shall at the request of any candidate or agent of a candidate, give to that candidate or agent a certificate stating the number of votes given for

Certificate of votes

each candidate and the number of ballots rejected. 1962 (1st) c. 7, s. 39.

Ballots, etc., to be delivered to returning officer

40. (1) The deputy returning officer shall, after counting the ballots placed in a ballot box, place all the ballots, the poll books, the oaths subscribed to by voters and the voters list in the ballot box, seal it and return it to the returning officer with a written statement of the votes cast for each candidate and the number of ballots rejected.

Declaration of election, etc. by returning officer

(2) On receipt of the ballot boxes used in an election the returning officer shall

- (a) add up the votes polled for each candidate,
- (b) declare the three candidates receiving the greatest number of votes elected,
- (c) report the names of the candidates elected to the Commissioner, and
- (d) deliver all voters lists, ballot boxes, ballots and oaths subscribed to by voters to the clerk of the municipality, if the school district is in a municipality, or to the Territorial Secretary or his agent, if the school district is outside the municipality. 1962 (1st) c. 7, s. 40.

Declaration of trustee

41. (1) Before a trustee attends his first meeting with the Board he shall make the following declaration before a justice of the peace or commissioner for oaths: "I do hereby accept the office of trustee for the school district to which I have been elected and I will to the best of my ability, honestly and fairly discharge the duties devolving on me as trustee." 1962 (1st) c. 7, s. 41.

First meeting of trustees

42. (1) The trustees of a school district shall within ten days after the date of their election meet and choose one of their number as chairman and shall appoint a secretary and a treasurer or secretary-treasurer who shall be paid such remuneration as the Board may fix.

(2) In case of the absence of the chairman at any meeting of the Board the trustees present shall elect one of their number to act as chairman of the meeting. 1962 (1st) c. 7, s. 42.

Trustees a body corporate

43. (1) The trustees of every school district shall be a corporation under the name "The Board of Trustees for the School District No. of the Yukon Territory", the number of the school district to be established by the Commissioner. 1962 (1st) c. 7, s. 43.

ANNUAL MEETING OF TAXPAYERS

44. (1) An annual meeting of the taxpayers of every school district shall be called by the Board not later than the first Tuesday of September in each year and shall commence at the hour of eight o'clock in the afternoon. 1962 (1st) c. 7, s. 44.

Annual taxpayers meeting

45. (1) The Board shall at least eight days before the day for which the annual meeting is called post notices giving the day, place and hour of the meeting in five conspicuous places within the district, one of which shall be the post office for that district, and if there is no post office for that district a sixth notice shall be posted in the post office nearest to that district. 1962 (1st) c. 7, s. 45.

Notice of annual meeting

46. (1) The Chairman of the Board shall be the chairman of the annual meeting and in the absence of the chairman the taxpayers present shall elect one of their number to preside.

Chairman

(2) The chairman shall not vote on any question except in the case of a tie.

When chairman to vote

- (3) It shall be the duty of the Chairman of the Board
 - (a) to have the general supervision of the affairs of the District,
 - (b) to certify all accounts against the District passed by the Board before such accounts are paid by the Treasurer,
 - (c) to countersign all cheques issued by the Treasurer on behalf of the District,
 - (d) to execute agreements with teachers and to procure the execution thereof by teachers,
 - (e) to designate one of the trustees as his deputy empowered to act in his absence or in the event the Chairman is unable or unwilling to act. 1962 (1st) c. 7, s. 46.

47. (1) The business of the annual meeting shall be conducted in the following order:

Business of annual meeting

- (a) the reading and adopting of minutes of the last annual meeting;
- (b) the reading and considering of a statement of the teacher signed by him and giving the following particulars:
 - (i) the number of days on which school was kept open in each term since the last annual meeting,
 - (ii) the total number of children attending school during that period, specifying the number of males and females,

- (iii) the number of children of school age residing in the district who did not attend school during the year,
 - (iv) the average daily attendance of pupils for each term and for the year,
 - (v) the classification of pupils and the number of pupils in each class,
 - (vi) the subjects taught in the school and the number of children studying each subject,
 - (vii) the number of pupils suspended or expelled for misbehaviour or other causes, and
 - (viii) the date on which the public examination of the school was held and the number of visitors present ;
- (c) the reading and considering of a statement prepared by the trustees giving the following particulars :
- (i) the names of the trustees,
 - (ii) the officers of the district appointed by the trustees and the salaries paid to those officers,
 - (iii) vacancies created in the Board during the year, giving the causes therefor and an account of the elections held to fill such vacancies and the results thereof,
 - (iv) the contracts entered into during the year by the Board as well as an account of those entered into by their predecessors,
 - (v) the number of regular and special meetings of the Board held during the year together with a statement showing the number of meetings attended by each member, and
 - (vi) the number of visits made by each member of the Board to the school while it was in operation ;
- (d) the reading and considering of the treasurer's statement for the fiscal year ending on the thirty-first day of March preceding the annual meeting, giving the following particulars :
- (i) the amount of money received by the district from each source of revenue including government grants whether paid directly or indirectly to teachers in the district,
 - (ii) the amounts of money paid out by the district with particulars as to whom such amounts were paid,
 - (iii) the amount of money due to the district from all sources with particulars as to these sources, and
 - (iv) the amount of money due by the district and the terms and times of payment ;

- (e) the reading and considering of a statement prepared by the collector of taxes and signed by him giving the following particulars:
 - (i) the total assessed value of all property as shown by the last revised assessment roll,
 - (ii) the total amount of taxes levied during the year,
 - (iii) the rate of the school tax,
 - (iv) the current taxes collected during the year,
 - (v) the arrears of taxes collected during the year, and
 - (vi) the total arrears of taxes that are due, together with a statement of the amount owing by each taxpayer;
- (f) the reading and considering of the Auditor's report ;
- (g) the reading and considering of the Superintendent's report received since the last annual meeting ; and
- (h) such further statements in relation to the affairs of the district as is deemed advisable. 1962 (1st) c. 7, s. 47.

SPECIAL MEETING OF TAXPAYERS

48. (1) A special meeting of the taxpayers in any district may be held at any time for the purpose of considering any matter not otherwise provided for in this Ordinance. Special meeting of taxpayers

(2) The secretary of the Board shall call a special meeting of taxpayers when required to do so by the Board, the Commissioner or the Superintendent or by a notice in writing signed by twenty-five percent of the taxpayers. Calling of special meetings

(3) The notice calling a special meeting shall set forth the purpose of the meeting and shall be posted in the manner provided for notices of annual meeting. 1962 (1st) c. 7, s. 48. Notice

49. (1) No business shall be considered at a special meeting of taxpayers other than that mentioned in the notices calling the meeting. 1962 (1st) c. 7, s. 49. Business of special meetings

MEETINGS OF SCHOOL BOARDS

50. (1) A meeting of the Board may be called by the chairman or by a trustee. 1962 (1st) c. 7, s. 50. Calling of Board meeting

51. (1) Subject to section 52, a meeting of the Board shall be called by giving notice in writing to each trustee two days prior to the date of the meeting or in the absence of a trustee from his residence or place of business by leaving such notice with an adult person at the trustee's residence or place of business. 1962 (1st) c. 7, s. 51. Notice of meeting

- Regular meetings** **52.** (1) The Board of any district may at any meeting at which all of the members of the Board are present decide by resolution to hold regular meetings of the Board and such resolution shall state the day, hour and place of such meeting and no further or other notice of any such meetings shall be necessary.
- Special meetings** (2) The Board may by unanimous consent recorded in the minutes waive notice of any meeting and hold a meeting at any time. 1962 (1st) c. 7, s. 52.
- Quorum** **53.** (1) A majority of the Board shall constitute a quorum.
- Meetings required to have quorum** (2) No act or proceeding of a Board shall be valid or binding on any party if it is not adopted at a meeting at which a quorum of the Board is present. 1962 (1st) c. 7, s. 53.
- Vacancies on Board** **54.** (1) Where the number of the trustees of a school district is reduced to one or to none the Commissioner shall appoint a returning officer and fix a day for the election of trustees.
- Trustee to serve only unexpired term** (2) A trustee elected to fill an office declared vacant shall hold office only for the unexpired term of the person in whose place he has been elected.
- Commissioner may appoint trustee** (3) Notwithstanding subsection (1), where the term of office of a trustee whose seat has been declared vacant is over one-half completed, the Commissioner may appoint a trustee for the remaining period of the term of that office. 1962 (1st) c. 7, s. 54.
- Questions to be decided by majority of votes** **55.** (1) At all meetings of the Board all questions shall be decided by a majority of votes. 1962 (1st) c. 7, s. 55.
- Duties of Board** **56.** (1) The Board of every school district shall
- (a) appoint a chairman, a secretary and treasurer or a secretary-treasurer and such other officers as are required by this Ordinance;
 - (b) procure a corporate seal for the district;
 - (c) see that all the reports and statements required by this Ordinance or by the Superintendent are transmitted to the Commissioner without delay;
 - (d) keep a record of the proceedings of each meeting of the Board signed by the chairman and secretary, see that true accounts of the schools in the district are kept, and see that the affairs of the district are conducted in the manner provided by this Ordinance and with due regard to efficiency and economy;
 - (e) provide the officers of the Board with the books necessary for keeping proper records of the district;

- (f) take possession of, and have the custody and safe keeping of, all the property of the district;
- (g) purchase or rent school premises, repair, furnish and maintain the school buildings, furniture, fences and all other school property, keep the wells, washrooms and premises, of each school in a proper sanitary condition, make due provision for properly lighting, heating, ventilating and cleaning each school and if it deems it advisable, purchase or rent premises for a residence for teachers of each school and repair and maintain order in such residence;
- (h) provide wholesome drinking water for the use of the children in each school;
- (i) provide suitable sanitary facilities for the children and teachers in each school;
- (j) keep insured the school buildings and equipment;
- (k) provide a suitable library for each school and make regulations for its management and use;
- (l) provide from the list authorized by the Commissioner all reference books required for the use of pupils and teachers in each school and all such apparatus as it is required for the proper instruction of pupils in each school;
- (m) require that no text books or apparatus be used in a school other than those authorized by the Superintendent;
- (n) exempt, either in whole or in part any indigent persons resident within the district from the payment of school taxes and where necessary provide the children of such persons with text books and other supplies at the expense of the district;
- (o) see that the school is conducted in accordance with the requirements of this Ordinance and of the Commissioner; and
- (p) discipline as it sees fit, any pupil who, upon investigation by the Board, is found to be guilty of truancy, open opposition to authority, habitual neglect of duty, the use of profane or improper language or other conduct injurious to the moral tone or well-being of the school;
- (q) engage and employ, subject to any regulations made by the Commissioner relating to qualifications and working conditions, all teachers, principals, vice-principals and other personnel necessary for the efficient operation of the school;
- (r) suspend or dismiss any teacher, principal, or vice-principal for gross misconduct, neglect of duty or refusal or neglect to obey any lawful order of the Board or

Superintendent or any regulation of the Commissioner ;

- (s) make regulations for the management of the school ;
- (t) settle disputes arising in relation to the school between the parents or children and teachers ;
- (u) provide and see that any law with reference to compulsory education and truancy is observed ;
- (v) provide equipment and supplies for the noon lunch and such equipment and appliances for school sports and games as may be deemed desirable by the School Board ;
- (w) designate the head teacher as principal of any school where more than one teacher is employed and in any school with an enrolment of more than two hundred and fifty pupils shall designate a vice-principal, and
 - (i) the principal shall with the concurrence of the Board be responsible for the administration, organization and general discipline of the school, and
 - (ii) the vice-principal of a school shall perform the duties assigned to him by the principal, if the principal is absent or unable to act, or if the office is vacant, the vice-principal has and may exercise all the powers of the principal ;
- (x) the parent or lawful guardian of any child residing outside the limits of any district may apply to the Board for the admission of such child to its school and the Board may, after due consultation and agreement with the Superintendent enroll such child in its school subject to satisfactory financial arrangements being negotiated. 1962 (1st) c. 7, s. 56.

Duties of the
secretary

57. (1) The secretary or secretary-treasurer of the Board shall

- (a) keep a full and correct record of the proceedings of every meeting of the Board and see that the minutes when approved are signed by the chairman ;
- (b) conduct and preserve the correspondence of the Board as he is directed by the Board ;
- (c) have charge of and keep on record all the books, papers, accounts, assessment rolls, plans and maps committed to his charge by the Board during his term of office and deliver the same to the chairman on ceasing to hold office ;
- (d) faithfully prepare and duly transmit to the Commissioner such reports, statements and other information in regard to the district as is from time to time required

- by the Commissioner or the Superintendent and in such form as is prescribed by the Superintendent ;
- (e) at the request in writing of the chairman or any trustee, call meetings of the Board ;
 - (f) produce the minutes and other books, assessment rolls and all papers and other records of the Board for inspection when required by the Superintendent so to do ;
 - (g) prepare the statement of the trustees to be presented at the annual meeting of the taxpayers ;
 - (h) at any annual or special meeting of the taxpayers produce the minute book of the district completed to the date of the meeting and give the taxpayers an opportunity to examine the same ; and
 - (i) give the notice required by this Ordinance of each annual meeting of the taxpayers, and call, within seven days of the date of receipt of the request, special meetings of the taxpayers as provided in section 48 of this Ordinance. 1962 (1st) c. 7, s. 57.

58. (1) The treasurer or secretary-treasurer of the Board shall

Duties of the treasurer

- (a) before entering upon his duties give security to the Board satisfactory to it in the form of a guarantee bond from any guarantee company authorized to do business in Canada, in the amount of any moneys for which the treasurer may at any time be responsible ;
- (b) receive all moneys payable to the District and disburse such moneys in the manner directed by the Board ;
- (c) pay all accounts owing by the district after they are certified by the chairman of the Board ;
- (d) keep a complete and detailed account of all moneys received and disbursed for school purposes, including government grants that may have been paid directly to teachers in the district ;
- (e) when called for by the trustees, auditor, Superintendent of Schools, or other competent authority, produce all books, papers and moneys belonging to the district and hand over to the trustees or any person named by them all such books, papers and money upon ceasing to hold office ;
- (f) prepare at the end of each fiscal year ending March 31st, a statement of the finances of the district for submission to the annual meeting of the taxpayers ;
- (g) prepare and transmit to the Superintendent such reports and statements with reference to the finances of the district as are from time to time required by the

Superintendent and in such form as is prescribed by the Superintendent ;

- (h) deposit all moneys of the District forthwith upon receipt thereof in a Canadian chartered bank ;
- (i) give and take receipts for all school moneys received and paid out, and keep on file all supporting vouchers ; and
- (j) at any annual or special meeting of the taxpayers produce the account books of the District completed to a date designated by the Chairman of the School Board and give the taxpayers an opportunity to examine the same. 1962 (1st) c. 7, s. 58.

Commissioner to appoint auditor

59. (1) The Commissioner shall appoint for every school district an auditor who shall audit the books and accounts of the school district in each year prior to the annual taxpayers meeting. 1962 (1st) c. 7, s. 59.

Return and reports

60. (1) The Board of every district shall cause to be prepared and transmitted to the Superintendent in the form prescribed by him half-yearly and yearly returns respecting the attendance and classification of pupils in the district and the finances of the district.

Penalty for failure to make returns and reports

(2) Where the Board of any district neglects or refuses to have prepared and transmitted to the Commissioner any returns and reports required by this Ordinance or by the Commissioner or Superintendent, the trustees through whose neglect or refusal such returns and reports have not been transmitted shall be jointly and severally liable to a penalty of ten dollars for each week that the reports and returns are delayed, which amount may be recovered by action in the Territorial Court by any person authorized by the Superintendent to bring such action. 1962 (1st) c. 7, s. 60.

RESIGNATION OF TRUSTEES

Resignation of trustee

61. (1) A trustee may resign by sending a notice in writing to the chairman of the Board and such resignation shall take effect on the election or appointment of another trustee. 1962 (1st) c. 7, s. 61.

VACATION OF OFFICE

Forfeiture of office by trustee

62. (1) A trustee who

- (a) is convicted of an offence under the Criminal Code,
- (b) becomes insane,
- (c) absents himself from meetings of the Board over three consecutive months without the authority of a resolution of the Board, or

(d) ceases to be an actual resident within the district for which he is a trustee, shall be deemed to have forfeited his seat, and the remaining trustee or trustees shall declare his seat vacant. 1962 (1st) c. 7, s. 62.

63. (1) No trustee shall have either directly or indirectly any pecuniary interest, profit or expected benefit in or from any contract, agreement or engagement with the school district of which he is a trustee or receive any compensation for any work, employment or duty on behalf of such district except as secretary, treasurer or secretary-treasurer for the district.

Trustee not to have interests in contracts with school district

(2) A trustee who violates subsection (1) shall be deemed to have forfeited his seat and the remaining trustees shall declare the seat vacant. 1962 (1st) c. 7, s. 63.

Penalty

FINANCIAL

64. (1) The Board of any district may by resolution authorize the chairman or treasurer to borrow from any chartered bank in Canada a sum not exceeding sixty per cent of the school taxes to be levied for the current year, as are required to meet the expenditures of the school district, until such time as the school taxes levied for the current year are available, and such loans shall be paid out of and shall be a first charge upon the taxes that are collected for the year in which the loan was made and may be secured by a promissory note given by the chairman and treasurer on behalf of the Board. 1962 (1st) c. 7, s. 64.

Borrowing for current expenditures

65. (1) The Board of any district may, upon receiving the approval of the Commissioner, borrow a sum not exceeding forty thousand dollars for the purpose of securing or improving a school site, or on purchasing, repairing, erecting, furnishing or adding to any school building.

Borrowing for special purposes

(2) Any amount borrowed pursuant to subsection (1) shall be made repayable in equal annual instalments with interest and may be extended over a period of not more than five years, and any such amount borrowed shall be secured by promissory notes given by the chairman and treasurer on behalf of the Board. 1962 (1st) c. 7, s. 65.

Repayment

66. (1) The provisions of the *Taxation Ordinance* respecting the assessment, rating and collection of taxes shall apply *mutatis mutandis* with respect to the assessment, rating and collection of taxes by a school district. 1962 (1st) c. 7, s. 66.

Assessment, rating and collection of taxes

Demand on municipality for collection of taxes

67. (1) Where a district is situate within a municipality the trustees may, after the final revision of the assessment roll of the municipality, make a demand on the Council of that municipality for the amount of money required for school purposes for the then current year, but such amount shall not exceed an amount equal to twenty-five mills on the dollar according to the last revised assessment roll of the property liable for assessment in that district for ordinary school purposes, with such additional amount as may be necessary to meet any indebtedness that has been incurred and is coming due, and such sum shall be assessed and collected as the rates of the municipality.

Property liable for assessment and taxation

(2) Subject to this Ordinance, the property liable to assessment and taxation for school purposes shall be the property liable to assessment for taxation for municipal or Territorial purposes. 1962 (1st) c. 7, s. 67.

Assessment for separate schools

68. (1) Where a separate school district is established by the Commissioner, the assessor shall add a column to the assessment roll in which he shall state the religion, whether Protestant or Roman Catholic, of the person assessed.

Where property held jointly by persons of different religious faiths

(2) Where in a separate school district property is held by two or more persons as joint tenants or tenants in common who are of different religious faiths the holders of such property shall be assessed in proportion to their respective interests in the property.

Extent of liability of separate school supporters

(3) Where a separate school district is established by the Commissioner, the taxpayers of that district shall be liable only for the payment of such school taxes they impose upon themselves in respect of that school. 1962 (1st) c. 7, s. 68.

Corporation may require property be assessed for separate school purposes

69. (1) A company may, by notice given to the clerk of a municipality in which a separate school district is situated, to the secretary of the Board of any public school district in the same district and to the secretary of the Board of such separate school district, require any part of the real property of which that company is either the owner or occupant that is liable to assessment, to be entered, rated and assessed for the purpose of the separate school district and the assessor shall thereupon enter the company as a separate school supporter in the assessment roll in respect of that property.

Duration of notice

(2) The notice described in subsection (1) shall be taken as continuing in force and to be acted upon by the clerk of the municipality until such time as the company vacates the property or so notifies the clerk.

Inspection of notice

(3) Every notice described in subsection (1) shall be kept by the clerk of the municipality on file in his office and shall

during the business hours of the clerk's office be open to inspection and examination by any person entitled to examine or inspect the assessment roll.

(4) A company giving a notice described in subsection (1) that contains false statements therein is liable on summary conviction to a penalty not exceeding five hundred dollars, and any person giving such notices on behalf of a company knowing it to contain false statements commits an offence and is liable on summary conviction to a fine of five hundred dollars or to imprisonment for three months or both fine and imprisonment.

Penalty for false statement

(5) Where a company that is either the owner or occupant of real property in a separate school district that is liable to assessment under this Ordinance for school purposes does not file a notice pursuant to subsection (1) the Assessor shall enter the company as a separate school supporter in the assessment roll in respect of a portion of its total real property so assessable and situate in that separate school district that is the same fraction of the total of all its real property assessable under this Ordinance situate in that separate school district as the number of children enrolled on the last school day of January of the year in respect of which the assessment is made in all schools operated by that separate school district is of the number of children enrolled on that same day in all schools, whether Territorial or District in the area comprising that separate school district. 1962 (1st) c. 7, s. 69.

EXECUTIONS AGAINST BOARD OF SCHOOL DISTRICT

70. (1) A writ of execution against the Board of any district may be endorsed with the direction to the sheriff to levy the amount thereof by rate; and the procedure therein shall be as follows:

Executions against Boards

- (a) the sheriff shall deliver a copy of the writ and endorsement to the treasurer or leave such copy at the office or dwelling house of the treasurer together with a statement in writing of the sheriff's fees and of the amount required to satisfy the execution, including interest calculated to the day of service;
- (b) if the amount described in paragraph (a) is not paid to the sheriff within one month after the service, the sheriff shall examine the assessment roll of the district and shall in like manner as rates are struck for general school purposes, strike a rate on the dollar on the assessable property in the said district sufficient to cover the amount due on the execution, with such additional amount as the sheriff deems sufficient to

cover the interest and his own fees up to the time when such rate will be available ;

- (c) after striking a dollar rate on the assessable property in the district, the sheriff shall issue an order under his hand and seal of office directed to the treasurer of the district and shall by such order, after reciting the writ and that the Board had neglected to satisfy the amount of the execution, command the treasurer to levy or cause to be levied the rate struck by the sheriff at the time and in the manner by law required in respect of general school rates ;
- (d) the treasurer shall at the time of levying the annual rate after receipt of the sheriff's order add a column to the tax roll in the said district headed "Execution rate A.B. vs Trustees of School District . . .", or by adding a column for each execution if there is more than one, and shall insert therein the amount required by the sheriff's order to be levied upon each person respectively, and the treasurer shall, as soon as the amount of the execution or executions is collected, return to the sheriff his order with the amount levied thereon ; and
- (e) the sheriff shall, after satisfying the executions and all fees thereon, return any surplus paid by the treasurer within ten days after receiving the same to the treasurer for the general purposes of the district.

(2) The treasurer of a school district shall for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to executions against a district be deemed to be an officer of the court out of which the writ issued, and as such shall be amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel him to perform the duties imposed upon him.

"treasurer"
defined

- (3) In this section "treasurer" means
 - (a) in the case of a school district situate within a municipality, the treasurer of such municipality ; and
 - (b) in the case of a school district situated outside a municipality, the officer performing the duties of treasurer of the Territory. 1962 (1st) c. 7, s. 70.

Tuition fees

71. (1) No school Board shall charge tuition fees unless the parents or guardian of a pupil in attendance at school in the district resides outside the district.

The Commission-
er to pre-
scribe fees

(2) The tuition fees charged by a school Board shall be the fees prescribed by the Commissioner. 1962 (1st) c. 7, s. 71.

72. (1) Any Board or any member thereof that willfully neglects or refuses to exercise or to assist in exercising all the powers vested in such Board by this Ordinance for the fulfilment of any contract or agreement made by it is personally responsible for the fulfilment of that contract or agreement. 1962 (1st) c. 7, s. 72.

Liability of Board and members

73. (1) Where the Board of any district

(a) wilfully contracts liabilities in the name of the district other than are provided in this Ordinance, or

(b) appropriates any moneys of the district for purposes other than are provided in this Ordinance,

the treasurer of the district or any other person authorized by the Commissioner may recover from the members of that Board, either jointly or severally, the amount over and above the amount provided by this Ordinance for which the district has been rendered liable through the action of the Board as a debt in any court of competent jurisdiction. 1962 (1st) c. 7, s. 73.

Liability of trustees for debts

74. (1) The members of a Board failing to take a guarantee bond from its treasurer shall be jointly and severally liable for any default of that treasurer to the extent of the sum for which such bond should have been taken, but where on the demand of any trustees the majority of the Board refuses or neglects to take the guarantee bond from the treasurer, such demand shall be recorded in the minutes of the Board and that trustee shall be relieved from all personal liability in the case of any default of the treasurer. 1962 (1st) c. 7, s. 74.

Liability of Board

75. (1) Every trustee who knowingly signs a false report or knowingly makes a false return 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. 1962 (1st) c. 7, s. 75.

Penalty for false reports

76. (1) Every trustee, officer or employee of a Board who, after ceasing to hold office, retains any money, book, paper or thing belonging to a Board after having received notice in writing from the chairman of the Board or from the Commissioner requiring him to deposit the same in the hands of a person named in such notice commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars for each day during which he wrongfully retains possession of such money, book, paper or thing and in default of payment of that fine, to imprisonment for a term not exceeding thirty days or to both fine and imprisonment. 1962 (1st) c. 7, s. 76.

Penalty for retaining money or books

Penalty on returning officer for prejudicing results of election

77. (1) Every returning officer of a district who knowingly prejudices the result of any voting by preventing votes from being taken, by taking unlawful votes, by altering returns or books in any way, or by any other means, 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 both fine and imprisonment. 1962 (1st) c. 7, s. 77.

PART III

GENERAL

School year

78. (1) The school year shall begin on the first day of July in each year and shall end on the thirtieth day of June next following.

Terms of school year

(2) The school year shall consist of two terms, the first term commencing on the first day of September or on a day to be fixed by the Commissioner and ending on Friday of the week immediately preceding the week that includes Christmas Day, and the second term commencing on the third day of January or if the third day of January in any year is a Saturday or a Sunday, on the fourth or fifth day of January in that year.

School may be held in July and August

(3) Notwithstanding subsection (2), the Commissioner may authorize the Superintendent to hold school in July and August of any year and select the pupils to be enrolled therein. 1962 (1st) c. 7, s. 78; 1967 (1st) c. 12, s. 1.

School hours

79. (1) School shall be held between nine o'clock and twelve o'clock in the forenoon and one o'clock and four o'clock in the afternoon of every day except Saturdays, Sundays and holidays.

Alteration of school hours

(2) Subject to the approval of the Commissioner, the Superintendent may alter the school hours for any school in the Territory. 1962 (1st) c. 7, s. 79.

Holidays

80. (1) The following days shall be school holidays:

- (a) Good Friday,
- (b) Easter Monday,
- (c) the birthday of the reigning sovereign,
- (d) Empire Day,
- (e) Dominion Day,
- (f) Discovery Day,
- (g) Labour Day,
- (h) Thanksgiving Day,
- (i) Remembrance Day,

(j) New Years Day, and

(k) any day specially appointed as a holiday by the Governor General or the Commissioner.

(2) The Superintendent may, with the approval of the Commissioner, give such other holiday or holidays as he deems proper to any school which is open during the whole school year, but any such school shall be open at least one hundred and ninety days in each school year. Idem

(3) Notwithstanding subsections (1) and (2), the Superintendent may, with the approval of the Commissioner, close any school or schools at such time and for such period as he deems necessary. 1962 (1st) c. 7, s. 80. Closing of schools

81. (1) All schools shall be taught in the English language, but the Superintendent may permit a primary course to be taught in the French language in any school. 1962 (1st) c. 7, s. 81. English language

82. (1) Religious instruction may be given to children in school during the first half hour of each day or during such other period as the Commissioner may prescribe. Religious instruction

(2) Where religious instruction is given in a school pursuant to subsection (1), any child attending that school may, with the approval of his guardian or parents, leave the school during the time that such religious instruction is given or remain in school without taking part in that religious instruction. Children may leave during religious instruction

(3) The Superintendent may direct that any school or schools be opened by the recitation of the Lord's Prayer. 1962 (1st) c. 7, s. 82. Lord's Prayer

83. (1) No person shall attempt in any way to deprive a child of the advantage that he might derive from the ordinary education given in a school and any such action on the part of a teacher shall be grounds for his dismissal. 1962 (1st) c. 7, s. 83. Persons not to interfere with the education of children

84. (1) The superintendent may establish kindergarten classes for the teaching and training of children between the age of four and six years, and, with the approval of the Commissioner, may fix and charge a monthly fee for each pupil attending such classes to cover the cost of maintaining the kindergarten. Kindergarten

(2) The Superintendent may, with the approval of the Commissioner, establish classes for the instruction of adults and retarded children and prescribe the requirements for admission to those classes. 1962 (1st) c. 7, s. 84. Education of adults and retarded children

Compulsory attendance

85. (1) Subject to subsection (2), every child that is seven years of age or over, but not over the age of fifteen and is resident in an area in which there is a school, shall attend school on every school day of a school year and, if so instructed by the Superintendent, on every school day during the months of July and August.

Exceptions

- (2) Subsection (1) does not apply to a child who
- (a) is prevented from attending school for any unavoidable cause ;
 - (b) has reached a standard of education equal to or higher than that to be attained in the school ; or
 - (c) is being instructed in a manner and to a standard satisfactory to the Superintendent.

Penalty

(3) Every parent, guardian or other person having the care or control of a child required by this section to attend school who neglects or refuses to cause the child to attend school is guilty of an offence and liable on summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding thirty days or to both such fine and imprisonment.

Proof

(4) In any proceedings under this section any school record relating to the age of a child is *prima facie* proof of the age of the child and in the absence of any other evidence, the court may infer the age of the child from his appearance.

(5) For the purposes of this section, a child shall be deemed not to have attained a specified number of years of age until the commencement of the anniversary, of the same number, of the day of his birth. 1962 (1st) c. 7, s. 85 ; 1966 (2nd) c. 9, s. 1.

Truant officers

86. (1) The Superintendent may appoint a truant officer for any school and may make regulations for the directions of the officer in the enforcement of this Ordinance. 1962 (1st) c. 7, s. 86.

Discipline in schools

87. (1) The Superintendent or a principal of a school may discipline a pupil for

- (a) persistent truancy,
- (b) persistent opposition to authority,
- (c) habitual neglect of work,
- (d) the use of profane or improper language,
- (e) the practice of any vice likely to effect injuriously the character of other pupils, or
- (f) any conduct injurious to the health, morals or well-being of the school.

(2) Where the Superintendent or principal suspends a pupil from school, he shall immediately inform the Commissioner of all circumstances of the case and the Commissioner may,

Superintendent to report suspension to Commissioner

- (a) expel the pupil,
- (b) suspend the pupil for a specified length of time, or
- (c) permit the pupil to return to school. 1962 (1st) c. 7, s. 87.

88. (1) Subject to this section, upon production of a certificate of illness or quarantine signed by a duly qualified medical practitioner, a teacher in a territorial school is entitled to sick leave, that is to say, leave of absence with pay, for fifteen days in respect of each school year.

Sick leave for teacher

(2) A district school teacher shall be entitled to the same benefits as are granted to a territorial school teacher under subsection (1) of this section and any teacher transferring to another district school or from a territorial school to a district school or from a district school to a territorial school in the Territory without a break in service shall have his salary entitlement during sickness calculated on the basis of his aggregate service in the Territory.

(3) Where a teacher referred to in subsections (1) or (2) ceases to be employed as a teacher in the Territory, there is owing by him to the Commissioner an amount equal to the amount of any salary received while on sick leave for any period that is in excess of one and one-quarter days for each month he has taught school in the Territory.

Amount owing by teacher who takes unearned sick leave

(4) Any amount owing by a teacher to the Commissioner pursuant to subsection (3) may be deducted from any salary owing to that teacher or may be recovered in the same manner as a debt owing to the Commissioner.

Recovery of salary paid for unearned sick leave

(5) No teacher is entitled to sick leave during any period he is on leave of absence without pay or under suspension. 1962 (1st) c. 7, s. 88; 1964 (1st) c. 7, s. 1(1)-(2).

Restrictions on sick leave

89. (1) Subject to this section, the Superintendent may grant leave of absence with pay to a teacher to the extent that he has earned that leave in accordance with subsection (2) hereinafter called "special leave"

Special leave

- (a) where there is illness or a death in the teacher's family;
- (b) where circumstances other than illness or quarantine, not directly attributable to the teacher, prevent his reporting for duty; or
- (c) under such other circumstances as the Commissioner approves.

Earning of special leave

(2) Every teacher shall earn special leave at a rate of one-half day for each month of continuous employment up to a maximum of thirty days.

Maximum that may be granted

(3) Except with the approval of the Commissioner, special leave shall not be granted by the Superintendent to a teacher for a period in excess of six days. 1965 (1st) c. 3, s. 1.

90. (1) Each teacher on first appointment to a position as a teacher in any school governed by this Ordinance shall for the first two years of service be classified as holding a probationary appointment and thereafter as holding a permanent appointment.

(2) Where the Superintendent or School Board suspends or dismisses any teacher holding a permanent appointment he or the School Board as the case may be, shall notify the teacher by double registered letter stating the reason for the suspension or dismissal.

(3) Where a teacher holding a permanent appointment is suspended or dismissed by the Superintendent or the School Board he may within ten days of receipt of the notice described in subsection (2) appeal the suspension or dismissal to the Commissioner who shall thereupon appoint a board consisting of three members to review all the circumstances and hear such evidence as they shall think necessary and the Commissioner, after considering the report of the Board may confirm or revoke or modify the order of suspension or dismissal. 1962 (1st) c. 7, s. 89.

Duties of teacher

91. (1) It shall be the duty of every teacher

- (a) to teach diligently and faithfully all the subjects required to be taught by the Commissioner;
- (b) to maintain proper order and discipline and conduct and to manage the school according to the regulations of the Commissioner;
- (c) to keep in a conspicuous place in the school room a time-table and submit such time-table to the Superintendent for his approval;
- (d) to keep in the prescribed form the school registers and records and to give access to them to the Superintendent and any other person authorized by the Commissioner to inspect them;
- (e) at the end of each term or at any other time, to promote such pupils from one class to another as he deems fit, subject to the approval of the Superintendent;
- (f) at such times as may be directed by the Superintendent, to send reports to the parents or guardians of

- each pupil respecting that pupil's attendance, conduct and progress at school ;
- (g) to attend to the proper heating, ventilating and cleanliness of the class room and of the sanitary facilities of the school, and to report thereon to the Superintendent ;
 - (h) to exercise vigilance over the school property the buildings, fences, furniture and apparatus and where the school is a territorial school to give prompt notice in writing to the Superintendent of any injury to the same ;
 - (i) in a territorial school, to report to the Superintendent any needed repairs to the school buildings or to furniture in it and any required supply of fuel, drinking water, furniture or equipment ;
 - (j) to notify the Superintendent and the Medical Health Officer for the district in which the school is situate whenever he has reason to believe that any pupil attending school is affected with, or has been exposed to, any infectious or contagious disease, and to prevent the attendance at school of any pupil so affected or exposed or suspected of being affected or exposed until furnished with a written statement of a medical doctor or a public health nurse that the child is not suffering from any infectious or contagious disease or has not been exposed to such a disease or that all danger from such exposure has passed ;
 - (k) to suspend any disobedient pupil from class and forthwith report in writing the facts of such suspension to the Superintendent ;
 - (l) to assist the Superintendent in making any returns or reports required by this Ordinance ;
 - (m) to furnish to the Commissioner, the Superintendent or any person designated by the Commissioner, any information which it is in his power to give respecting anything connected with the operation of the school or in any way affecting its interests or character ;
 - (n) in a territorial school, to deliver up the school register, school house key or other school property in his possession when required to do so by written order of the Commissioner or Superintendent in the manner and to the person described in the order ;
 - (o) to attend all meetings of teachers called by the Superintendent or the principal of the school in which he is employed ; and
 - (p) to report in writing at once to the Superintendent or the Commissioner upon any matter on which they require a report. 1962 (1st) c. 7, s. 90.

Classification of schools

92. (1) The Commissioner may classify schools in the Territory by such description as he deems appropriate. 1962 (1st) c. 7, s. 91.

Duties of Commissioner

93. (1) The Commissioner shall, on the recommendation of the Superintendent,

- (a) prescribe the curriculum of studies to be followed in all schools in the Territory ;
- (b) prescribe the text books to be used in all schools other than for religious instruction ;
- (c) establish the system of examinations to be used in all schools in the Territory ; and
- (d) prescribe the qualifications and working conditions for teachers in all schools in the Territory. 1962 (1st) c. 7, s. 92.

Powers of Commissioner

94. (1) The Commissioner may in respect of territorial schools

- (a) authorize any pupil, notwithstanding anything in this Ordinance to take courses of study by correspondence on such terms and conditions as the Superintendent deems proper and pay such expenses involved in such courses as the Commissioner may determine ;
- (b) provide such dormitory accommodations and food, clothing, medical and dental care for pupils as he deems necessary ;
- (c) provide residences for teachers and furnish and maintain such residences ;
- (d) pay to the parent, guardian or other person having the care or control of a child who in order to attend school is compelled to board away from his home such amount up to a maximum not exceeding sixty dollars per month as the Commissioner deems necessary to enable that child to attend school ; and
- (e) pay the actual cost of transporting pupils to and from their homes or other residence approved by the Commissioner for the purpose of this paragraph and the school they attend or pay such amounts as he may fix to the parent, guardian or other person having the care and control of the child for the transporting of that child to and from his home and the school and so far as practicable in fixing the payments under this paragraph the Commissioner shall, in the absence of any special circumstances related to the extreme youth or physical condition of a child pay transportation allowance only in respect of a pupil living two or more miles by nearest passable road from the school he is required to attend, and the transportation allowance shall be

calculated at the rate of five cents per mile each child is actually transported to his school by the shortest practicable route on a school day subject to a maximum payment of three dollars per day in respect of each child. 1962 (1st) c. 8, s. 93; 1966 (1st) c. 5, s. 1.

PENALTIES

95. (1) Every person who wilfully disturbs or interrupts the proceedings of any school meeting authorized to be held by this Ordinance, or any one who wilfully disturbs or interrupts the conduct of any school by rude or indecent behaviour, or by making a noise either within the place where school is kept or held, or so near thereto as to disturb the order or exercises of the school, commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars and in default thereof to imprisonment for a term not exceeding thirty days or to both fine and imprisonment. 1962 (1st) c. 7, s. 94.

Penalty for disturbing meeting

96. (1) Every teacher who keeps a false school register or who knowingly makes a false return commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars or in default thereof to imprisonment for a term not exceeding thirty days or to both fine and imprisonment. 1962 (1st) c. 7, s. 95.

False returns

97. (1) Every person who violates any provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance commits an offence and is liable upon summary conviction to a fine not exceeding two hundred dollars or to imprisonment for a term not exceeding thirty days or to both fine and imprisonment. 1962 (1st) c. 7, s. 96.

98. (1) Any number of teachers may organize themselves into an association, and subject to the regulations of the Department, may hold conventions and institutes for the purpose of receiving instruction, discussing educational matters and matters relating to salaries and working conditions.

(2) Where the association referred to in subsection (1) represents a majority of the teachers in the Territorial schools, it may appoint a salary committee of not less than three and not more than four members to meet with the advisory committee referred to in subsection (4) to discuss salaries and working conditions.

Appointment of salary committee

(3) There shall be an advisory committee composed or not less than three and more than four members appointed by the Commissioner one member of which shall be a Member of

Advisory committee

Council and appointed upon the recommendation of the Council.

Meetings (4) Meetings of the salary committee and the advisory committee may be initiated by either committee and shall be held at a time that will enable proper consideration to be given by the Commissioner before the preparation of the estimates for the succeeding year.

Report (5) The advisory committee created under subsection (3) shall report to the Commissioner and the Advisory Committee on Finance of the Council.

Agreement not binding (6) Any agreement reached by the salary committee and the advisory committee shall not be binding on the Commissioner, the association referred to in subsection (1) or any of its members. 1962 (1st) c. 7, s. 97; 1967 (2nd) c. 15, s. 1.

Interpretation **99.** (1) Where the necessity for interpretation of any section, word, phrase or other meaning may arise relative to this Ordinance, due consideration shall be given to the recommendations of the Committee on Education contained in their report in the year 1960 and the decisions thereon of the Yukon Legislative Council taken in 1960 3rd Session.

(2) Regulations made in accordance with this Ordinance shall be made within the meaning of the recommendations of the Committee on Education in like manner to subsection (1). 1962 (1st) c. 7, s. 98.

FINANCIAL

Payment of fines to Y.C.R.F. **100.** (1) Subject to this Ordinance all moneys collected as fines under this Ordinance shall be paid into the Yukon Consolidated Revenue Fund. 1962 (1st) c. 7, s. 99.

SCHEDULE I

Public notice is hereby given to the voters of the School District of.....that nominations of candidates for the office of trustee for said district shall be delivered to me at.....in said district before the hour of five o'clock in the afternoon onthe.....day of.....19.....

Public notice is hereby given to the said voters that if a poll shall be granted for the election now pending for the said trustees such poll will be open on.....,the.....day.....,19....., from the hour of nine o'clock in the forenoon till six o'clock in the afternoon at the polling stations hereinafter designated in and for each of the following polling divisions, that is to say; For Polling Division No. 1 consisting of those electors whose surnames commence with the letters from..... to.....(or whose residences are in the area bounded as follows....., or as the division is otherwise designated) at.....(here clearly describe the polling place) For Polling Division No.....(and so continue for all the other polling divisions in the school district).

And I will at.....,on the.....day of..... 19....., ato'clock in the..... noon, sum up the votes and declare the result of the election. Given under my hand at the..... of.....in the Yukon Territory, this.....day of..... 19.....

1962 (1st) c. 7, Sched. A.

SCHEDULE II

Oath of Returning Officer, Deputy Returning Officer and Poll Clerk:

I,do swear that I have not received any sum of money, office, employment or gratuity, or any bond, bill or note, or any promise of gratuity by myself or another, to my use or advantage, for making any return at this election; that I will return to the (Returning Officer or Commissioner as the case may require), a true and faithful account of the votes polled in this election, and that I will faithfully discharge my duty at the election to the best of my knowledge and judgment. So help me God.

1962 (1st) c. 7, Sched. B.

SCHEDULE III

Election of School Trustees for the School District of	JOHN DOE	X
	RICHARD ROE	X
	GEOFFREY STILES	X
	JOHN STILES	X

1962 (1st) c. 7, Sched. C.

SCHEDULE IV

INSTRUCTIONS

The names of the persons nominated shall be printed in the space on the right of the form in alphabetical order and the voter shall mark his ballot for the persons for whom he desires to vote by placing a cross on the right hand side of the ballot opposite the names of such persons. Any other marks placed on the ballot by any voter will invalidate the same.

1962 (1st) c. 7, Sched. D.

SCHEDULE V

I....., do solemnly swear (or affirm) that I am a Canadian citizen or other British subject of the full age of twenty-one years, a resident taxpayer of..... district and have paid the taxes due by me in respect of property in the saidschool district; (or the wife or husband of a taxpayer of.....school district) that I have not before voted at this election; (in the case of an election of a separate school trustee,) "that I am of the.....faith and a supporter of the separate school" and that I have not received either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place.

1962 (1st) c. 7, Sched. E.

CHAPTER S-4

SCIENTISTS AND EXPLORERS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Scientists and Explorers Ordinance*. R.O. 1958, c. 100, s. 1. Short title

LICENCES

2. (1) The Commissioner may issue a licence, subject to such conditions as to duration, area or otherwise as he may prescribe, to a person to enter the Territory for scientific or exploration purposes and to carry out those purposes in the Territory. Issue

(2) The Commissioner may, at any time, for any cause that to him seems sufficient, extend, renew, alter or revoke a licence issued under this section. R.O. 1958, c. 100, s. 2. Extension, etc.

3. (1) In addition to any conditions prescribed with respect to a licence issued under section 2, every licence is subject to the following conditions: Conditions applicable to all licences

(a) that the objects of entry of the holder of the licence into the Territory are exclusively for scientific or exploration purposes and not, in any way, political or commercial; and No political or commercial objects

(b) that, subject to section 4, the licensee will strictly comply with the provisions of all laws of the Territory. Compliance with other Ordinances

(2) Every applicant for a licence shall furnish to the Commissioner an accurate statement showing the number, identity and nationality of the persons who will accompany him as well as his own identity and nationality. Statement of identity, etc.

(3) The Commissioner may prescribe the fee for any licence issued under this Ordinance. R.O. 1958, c. 100, s. 3; 1971 (1st) c. 20, s. 24.

4. (1) No person shall enter the Territory for scientific or exploration purposes and no person shall carry out such purposes in the Territory unless he is the holder of a valid licence issued under this Ordinance. R.O. 1958, c. 100, s. 4. No entry without licence

RETURNS

Returns to
Commissioner

5. (1) Every licensee shall, at the close of the scientific or exploration work in respect of which his licence was issued, furnish, in duplicate, to the Commissioner

- (a) a statement setting forth the scientific information he has acquired in carrying out the purposes in respect of which the licence was issued;
- (b) a report setting forth the localities visited and the time spent in each locality;
- (c) a descriptive catalogue of all specimens collected;
- (d) copies of all photographs taken and maps and plans made in connection with the work together with explanatory notes; and
- (e) such other information as the Commissioner may prescribe.

Returns to
R.C.M.P., etc.

(2) Every licensee shall forthwith after being requested by him to do so, furnish to a member of the Royal Canadian Mounted Police or an officer in charge of a government patrol, or other Crown officer, a log of voyages by water taken by the licensee, or information of the route followed on journeys by land or air taken by him, as the case may be, together with full particulars of such voyages or journeys. R.O. 1958, c. 100, s. 5.

Specimens

6. (1) The Commissioner may require a licensee to submit to him or to such person as the Commissioner may designate, any or all of the specimens collected by the licensee, and such specimens may be disposed of in any manner the Commissioner thinks fit. R.O. 1958, c. 100, s. 6.

REGULATIONS

Regulations

7. (1) The Commissioner may, from time to time, make rules and regulations for carrying out the purposes and provisions of this Ordinance. R.O. 1958, c. 100, s. 7.

PENALTY

Offence and
penalty

8. (1) Any person who violates any provision of this Ordinance or the regulations or the conditions of a licence issued under 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 six months, or to both fine and imprisonment. R.O. 1958, c. 100, s. 8.

CHAPTER S-5

SECURITIES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Securities Ordinance*. Short title
1970 (3rd) c. 1, s. 1.

INTERPRETATION

2. (1) In this Ordinance unless the context otherwise requires: Interpretation

“broker” means a person or company who trades in securities but does not include a salesman; “broker”

“company” means an incorporated company, incorporated association, incorporated syndicate and incorporated organization, wheresoever incorporated, and includes an intended company; “company”

“individual” means a natural person, but does not include a trustee, partnership, unincorporated association, unincorporated organization, unincorporated syndicate, executor, administrator or other personal legal representative; “individual”

“investment counsel” means any person or company who or that engages in or holds himself out as engaging in the business of advising others as to the advisability of investing in or purchasing or selling specific securities and who or that is primarily engaged in giving continuous advice as to the investment of funds on the basis of the individual needs of each client; “investment counsel”

“official” includes president, chairman, director, member of a committee, trustee, secretary, treasurer, general manager, departmental or branch manager and any other person in a managerial capacity by whatsoever name called; “official”

“person” means an individual, partnership, any unincorporated association, unincorporated syndicate, unincorporated organization, trustee, executor, administrator or other legal personal representative; “person”

“registrar” means the Registrar of Securities or any duly authorized person performing his duties under this Ordinance; “registrar”

"salesman" "salesman" means an individual registered as a salesman under this Ordinance;

"security" "security" includes

- (a) any document, instrument or writing commonly known as a security;
- (b) any document constituting evidence of title to or interest in the capital, assets, property, profits, earnings or royalties of any person or company;
- (c) any document constituting evidence of an interest in an association of legatees or heirs;
- (d) any document constituting evidence of an option, subscription, or other interest in or to a security;
- (e) any bond, debenture, share, stock, note, unit, unit certificate, participation certificate, certificates of share or interest, pre-organization certificate of subscription;
- (f) any agreement providing that money received will be repaid or treated as a subscription to shares, stock, units or interests at the option of the recipient or of any person or company;
- (g) any certificate of share or interest in a trust, estate or association;
- (h) any profit-sharing agreement or certificate;
- (i) any certificate of interest in an oil, natural-gas, or mining lease, mineral claim, or royalty voting trust certificate;
- (j) any oil or natural-gas royalties or leases or fractional or other interest therein;
- (k) any collateral trust certificate;
- (l) any exploration permit (petroleum and natural-gas);
- (m) any income or annuity contract;
- (n) any investment contract, whether any of foregoing relate to a person, proposed company, or company, as the case may be, and
- (o) any plan or agreement (or any certificate, instrument, or writing relating thereto), for the payment of educational costs or other assistance to students, the principal features of which consist of
 - (i) the making of contributions; and
 - (ii) benefits related in whole or in part to the amount and duration of contributions.

"securities adviser"

"securities adviser" means any person or company who or that engages in or holds himself or itself out as engaging in the business of advising others, either directly or through

publications or writings, as to the advisability of investing in or purchasing or selling specific securities;

“security-issuer” means a person or company trading only in securities of his or its own issue; “security issuer”

“trade” or “trading” includes any purchase of a security, any solicitation or obtaining of a subscription to or purchase of a security, any sale or disposition of a security, and dealing or transaction in a security, and, in the case of a company, includes any allotment, issue, or disposition of any of its own securities by option, agreement, sale, resolution, by-law, or otherwise, and in all cases includes anything declared to be included in this definition by the regulations. 1970 (3rd) c. 1, s. 2. “trade”

3. (1) Part III of this Ordinance shall not apply to:

- (a) a trade in a specific security by or on behalf of the owner, for the owner’s account, where the trade is not made in the course of continued and successive transactions of a like nature and is not made by a person or company whose usual business is trading in securities;
- (b) a trade in a security where one of the parties to the trade is registered as a broker under the provisions of this Ordinance and the security is listed on any stock exchange designated by the regulations;
- (c) a trade in a security by a chartered bank, a trust company or insurance company;
- (d) a trade in a security by an official or employee of Her Majesty in right of Canada, or any Province or Territory of Canada or of any municipality, or public board, or commission in Canada, in the performance of his duties as such;
- (e) a trade in a security by or for the account of a pledgee or mortgagee for the purpose of liquidating a *bona fide* debt, where the security was pledged or mortgaged in good faith as security for the debt;
- (f) a trade in a security under a writ of execution or an order of any court, or by an executor, administrator, guardian or committee acting as such, or by a trustee, receiver, or custodian under the *Bankruptcy Act* or by a receiver under the *Judicature Ordinance*; or by a liquidator under the *Winding-up Act* or the *Canada Corporations Act* or the *Companies Ordinance*;
- (g) a trade in its own securities by a company that is constituted as a private company under the law under which the company was incorporated and that is entitled to all privileges and exemptions conferred by that

Exemption of certain trades in securities from registration

law on a private company, where no commission or other remuneration is paid or given in connection therewith, unless the regulations provide that the company shall not be exempted in whole or in part from the application of Part III :

- (h) a trade in its own securities by a company by way of dividend or distribution of surplus or for the purpose of securing additional capital or funds, if notice thereof is first given to the Registrar and the securities are issued or sold exclusively to existing members of the company or holders of its issued securities and where the Registrar so requires, proportionately to their holdings or in any other proportion or in any other special manner, if no commission or remuneration is allowed or paid in connection therewith; but subject to all provisions of the regulations enlarging or restricting the application of this clause ;
- (i) a trade in its own securities by a company in the course of the reorganization of the company and not for the purpose of securing additional capital or funds, except in accordance with the provisions of paragraph (h) ;
- (j) a trade in its own securities by a company by way of exchange of securities by the company with another company in connection with an amalgamation or consolidation of the companies or a merger of one company in the other company ;
- (k) a trade in good faith by a *bona fide* prospector or miner of a security issued by him to finance a prospecting expedition, or to dispose of any of his interest in a mineral or placer-mining claim or property staked by or wholly or partially owned by him ;
- (m) a trade by a company in securities secured by mortgage or charge on its property, real or personal, where the entire issue of securities is sold at one time ;
- (n) a trade in negotiable bills of exchange or promissory notes or other commercial paper maturing not more than one year from the date of issue and not offered for sale to an individual otherwise than provided for in paragraph (a) of this section ;
- (o) a trade in a security evidencing indebtedness in respect of a contract within the meaning of the *Conditional Sales Ordinance* ;
- (p) a trade in securities by a person or company formed solely for benevolent, fraternal, charitable, educational, or recreational purposes, where no part of the net earnings enure to the benefit of any security holder

and information relative to the security has first been delivered to the Registrar; and

- (q) any class of trade in a security exempted by the regulations. 1970 (3rd) c. 1, s. 3.

PART I

REGISTRATION OF BROKERS, SECURITY-ISSUERS AND SALESMEN

4. (1) No person or company shall directly or indirectly act as a broker, security-issuer or salesman unless the person or company holds a certificate of registration therefor under this Ordinance which is in full force and effect. 1970 (3rd) c. 1, s. 4. Acting as broker, security-issuer or salesman without registration prohibited

5. (1) The Registrar shall grant registration or renewal of registration to an applicant where, in the opinion of the Registrar, the applicant is suitable for registration and the proposed registration is not objectionable. 1970 (3rd) c. 1, s. 5. Registration

6. (1) The Registrar may, in his discretion, attach to a registration or renewal of registration such terms, conditions, or restrictions as may be deemed necessary by him. 1970 (3rd) c. 1, s. 6. Restriction on registration

7. (1) Every registration lapses on the 30th day of April in each year, and renewal of registration shall be applied for on or before the 1st day of April in each year, giving full particulars of any change in the facts set forth in the latest application form on record with the Registrar and enclosing the prescribed fee. 1970 (3rd) c. 1, s. 7.

8. (1) A registration shall have effect only in respect of *bona fide* trades entered into during the period for which the registration is in force, and if the certificate of registration provides that any term, condition, or restriction shall continue in force, notwithstanding the variation, termination or expiration of the registration, the term, condition, or restriction shall have effect accordingly. 1970 (3rd) c. 1, s. 8. Restriction on registration to continue

9. (1) The Registrar may refuse an application for registration or renewal of registration but if there is material alteration in the proposals a further application may be made, provided that no new application shall be receivable by the Registrar until after the expiration of one month from Refusal of registration

the date upon which the last application was refused except for technical errors in the application.

Suspension, cancellation

(2) The Registrar shall suspend or cancel any registration where in his opinion such action is in the public interest; in which case he shall forthwith notify the registrant of the suspension or cancellation. 1970 (3rd) c. 1, s. 9.

Application on prescribed form

10. (1) Every application for registration under this Ordinance shall be made in the prescribed form. 1970 (3rd) c. 1, s. 10.

Further information

11. (1) The Registrar may require any further information or material to be submitted by an applicant or a registrant within a specified time and may require verification by affidavit or otherwise of any information or material then or previously submitted or may require the applicant or the registrant or any partner, official, director or employee of the applicant or of the registrant to submit to examination under oath by the Registrar or a person designated by him in writing. 1970 (3rd) c. 1, s. 11.

Expert to assist Registrar

12. (1) Where the Registrar deems it necessary for the due administration of this Ordinance, he may appoint one or more persons to assist him who, in his opinion, are qualified to do so.

Examination of documents by expert

(2) The Registrar may submit any agreement, prospectus, financial statement, report or other document to a person appointed under subsection (1) for examination, and the Registrar or a person designated by him in writing has the like power to summon and enforce the attendance of witnesses before a person appointed under subsection (1) and to compel them to produce documents, records and things as is vested in the Registrar.

Expert to be paid

(3) A person appointed under subsection (1) shall be paid such amounts for services and expenses as may be prescribed. 1970 (3rd) c. 1, s. 12.

Address for service

13. (1) Every applicant shall state in an application for registration, an address for service in the Territory and all notices under this Ordinance or the regulations shall be sufficiently given to or served on the applicant for all purposes of this Ordinance if sent by prepaid mail addressed to the applicant at the lastest address so stated. 1970 (3rd) c. 1, s. 13.

14. (1) The Registrar may require any applicant or any registered person or company within a specified time to deliver a bond by a surety company approved by the Registrar or any other bond in such form and upon such condition and in such amount as the regulations or the Registrar shall require.

Bond by a surety company if required

(2) The Registrar may require a new or an additional bond of the kind mentioned in subsection (1) to be filed within a specified time. 1970 (3rd) c. 1, s. 14.

New or additional bond

15. (1) Any bond mentioned in section 14 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to the Commissioner when there has been filed with the Registrar the Commissioner's certificate that the person or company in respect of whose conduct the bond is conditioned, or any official of such company, has, in connection with a trade in a security, been :

Forfeiture of bonds

- (i) convicted of a criminal offence ;
- (ii) convicted of an offence against any provision of this Ordinance or the regulations ;
- (iii) enjoined by the court or a judge thereof otherwise than by an interim injunction ; or
- (iv) a party to civil proceedings as a result of which final judgment has been given against such person, company, or official in connection with a trade in a security where such judgment is based upon a finding of fraud.

(2) Any bond mentioned in section 14 shall be forfeit and the sum named therein shall become due and owing by the person or company bound thereby as a debt to the Commissioner when there has been filed with the Registrar a certificate signed by the Commissioner that proceedings by or in respect of the person or company in respect of whose conduct the bond is conditioned has been taken :

Forfeiture upon bankruptcy or winding-up proceedings

- (a) under the *Bankruptcy Act*, or
- (b) in the case of a company, by way of winding-up.

(3) The Commissioner may assign any bond forfeit under the provisions of subsections (1) and (2) or may pay over moneys recovered thereunder to any person or company, or into the Court in trust for such persons and companies as are or may become judgment creditors of the person or company bonded, or to any trustee, custodian, interim or official receiver, or liquidator of such person or company, as the case

Assignment of bonds or payment of moneys to creditors

may be; such assignment or payment over to be in accordance with and upon conditions set forth in the regulations or in any special order of the Commissioner. 1970 (3rd) c. 1, s. 15.

Appointment of receiver, etc.

16. (1) The Commissioner, whenever Her Majesty becomes a creditor of any person or company in respect of a debt arising from the provisions of section 15 and of this section, may take such proceedings as he shall see fit under the *Bankruptcy Act*, the *Judicature Ordinance*, the *Winding-up Act* or the *Companies Act of Canada* for the appointment of an interim receiver, custodian, trustee, receiver or liquidator, as the case may be. 1970 (3rd) c. 1, s. 16.

Appeal from refusal, suspension or cancellation

17. (1) Where any registration is refused, suspended or cancelled under this Part, the person or company affected may appeal therefrom to the Court within thirty days from the date on which notice of refusal, suspension or cancellation is given by the Registrar and the Court may confirm, reverse or modify the action of the Registrar. 1970 (3rd) c. 1, s. 17.

Notice of refusal, suspension or cancellation

18. (1) The Registrar may in the case of any refusal or suspension and shall in the case of any cancellation give notice to the public by advertisement or otherwise, or to any individual by letter or otherwise, whenever he deems it advisable. 1970 (3rd) c. 1, s. 18.

PART II

INVESTIGATION AND ACTION BY THE REGISTRAR

Investigation by Registrar

19. (1) The Registrar or any person or persons he may by order appoint, may make such investigation as he or they deem expedient for the due administration of this Ordinance or into any matter relating to trading in securities, in which case the Registrar or his representative or representatives may investigate, inquire into and examine:

Scope of investigation

(a) the affairs of the person or company in respect of which the investigation is being made and any books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings, and payments to, by, on behalf of, or in relation to or connected with the person or company and any property, assets, or things owned, acquired, or alienated in whole or in part by the person or company

or by any person or company acting on behalf of or as agent for the person or company, and

- (b) the assets at any time held, the liabilities, debts, undertakings, and obligations at any time existing, the financial or other conditions at any time prevailing or in relation to or in connection with the person or company, and the relationship that may at any time exist or have existed between the person or company and any other person or company by reason of investments, commissions promised, secured, or paid, interests held or acquired, the loaning or borrowing of money, stock, or other property, the transfer, negotiation, or holding of stock, interlocking directorates, common control, undue influence, or control or any other relationship.

(2) The person making an investigation under this section has the same power to summon and enforce the attendance of witnesses and compel them to give evidence on oath or otherwise, and to produce documents, records, and things, as is vested in the Court for the trial of civil actions, and the failure or refusal of a person to attend, to answer questions, or to produce the documents, records and things in his custody or possession makes the person liable to be committed for contempt by a judge of the court as if in breach of an order or judgment of that Court; and no provision of the *Evidence Ordinance* exempts any bank or any officer or employee thereof from the operation of this section.

Power to
summon wit-
nesses

(3) A person giving evidence at an investigation under this section may be represented by counsel or agent.

Counsel or agent

(4) Where an investigation is ordered under this section, the person or persons appointed to make the investigation may search for, seize and take possession of any documents, records, securities or other property of the person or company whose affairs are being investigated.

Seizure of
property

(5) Where any documents, records, securities, or other property are seized under subsection (4), the documents, records, securities, or other property shall be made available for inspection and copying by the person or company from whom seized at a mutually convenient time and place.

Inspection of
property

(6) Where an investigation is ordered under this section, the Registrar may appoint an accountant or other person to examine documents, records, properties, and matters of the person or company whose affairs are being investigated.

Accountants,
other experts

Report of investigations

(7) Every person or persons appointed under this section shall report the result of his investigation or examination to the Registrar.

Evidence not to be disclosed

(8) No person, without the consent of the Commissioner or the Registrar, shall disclose, except to his counsel, or the agent appointed pursuant to subsection (3), any information or evidence obtained or the name of any witness examined or brought to be examined under this section. 1970 (3rd) c. 1, s. 19; 1971 (3rd) c. 10, s. 1.

Territorial Court or judge may enjoin from trading in securities

20. (1) The Court or any judge thereof, upon the application of the Registrar, where it is made to appear upon the material filed or evidence adduced that any fraudulent act, or any offence against this Ordinance or the regulations, has been, is being, or is about to be committed, may by order enjoin:

- (a) any registered broker, security-issuer or salesman, or any person or company implicated with any of them in the same matter, from trading in any security whatever absolutely or for such period of time as shall seem just, any such injunction shall *ipso facto* suspend the registration of any registered broker, security-issuer, or salesman named in the order absolutely or during the period of time stated in the order, or
- (b) any person or company from trading in any security whatever, or in any specific security, or from committing any specific security, or from committing any specific fraudulent act or series of fraudulent acts absolutely or for such period of time as shall seem just.

Application may be *ex parte* or by originating notice

(2) The Application of the Registrar under subsection (1) may be made without any action being instituted, either:

- (a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof, unless the time is extended or the originating motion mentioned in clause (b) hereof is sooner heard and determined, or
- (b) by an originating notice of motion, which, if an interim injunction has been granted, shall be served within five and returnable within ten days from the date of such interim injunction.

Evidence

(3) In proceedings under this section the evidence of a witness may be used against him notwithstanding anything in the *Evidence Ordinance* contained. 1970 (3rd) c. 1, s. 20.

Order to hold or refrain from dealing with funds

21. (1) The Registrar may,

- (a) where he is about to order an investigation under section 19 involving a person or company or during or after an investigation under section 19, involving a person or company ;
- (b) where he is about to suspend or cancel the registration of any person or company ; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Ordinance or the regulations are about to be or have been instituted against any person or company that in the opinion of the Registrar are connected with or arise out of any security or any trade therein or out of any business conducted by such person or company.

in writing or by telegram direct any person or company having on deposit or under control or for safekeeping any funds of securities of the person or company referred to in paragraph (a), (b), or (c) to hold the funds or securities or direct the person or company referred to in paragraph (a), (b), or (c) to refrain from withdrawing any such funds or securities from any other person or company having any of them on deposit, under control, or for safekeeping or to hold all funds or securities of clients or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act*, the *Companies Ordinance* or the *Winding-up Act of Canada*, or until the Registrar in writing revokes the direction or consents to release any particular fund or security from the direction, but the direction does not apply to funds or securities in a stock-exchange clearing house or to securities in process of transfer by a transfer agent unless the direction expressly so states, and in the case of a bank loan, or trust company, the direction applies only to the offices, branches, or agencies thereof named in the direction.

(2) Any person or company in receipt of a direction given under subsection (1), if in doubt as to the application of the direction to any funds or security or in the case of a claim being made thereto by any person or company not named in the direction, may apply to a judge of the Court, who may direct the disposition of such funds or security and may make such order as to costs as seems just.

Application for
direction

(3) In any of the circumstances mentioned in paragraph (1)(a), (1)(b) or (1)(c), the Registrar may in writing or by telegram notify the Registrar of Land Titles or any Mining Recorder that proceedings are being or are about to be taken that may affect land or mining claims belonging to the person or company referred to in the notice, which notice shall be registered or recorded against the lands or mining

Notice to
Registrars

claims mentioned therein and has the same effect as the registration or recording of a certificate of *lis pendens*, and the Registrar may in writing revoke or modify the notice. 1970 (3rd) c. 1, s. 21.

Application for appointment of receiver, receiver and manager or trustee

22. (1) The Registrar may,

- (a) where he is about to order an investigation under section 19 or during or after an investigation under section 19;
- (b) where he is about to make or has made a decision affecting the registration of any person or company or affecting the right of any person or company to trade in securities; or
- (c) where criminal proceedings or proceedings in respect of a contravention of this Ordinance or the regulations are about to be or have been instituted against any person or company that in the opinion of the Registrar is connected with or arise out of any security or any trade therein, or out of any business conducted by such person or company.

apply to a judge of the Court for the appointment of a receiver or a receiver and manager or a trustee of the property of such person or company.

Appointment

(2) Upon an application made under subsection (1) the judge may, where he is satisfied that the appointment of a receiver or a receiver and manager or a trustee of the property of any person or company or of persons or companies any of whose property is in the possession or under the control of the person or company, appoint a receiver or a receiver and manager or a trustee of the property of the person or company.

Ex parte application

(3) Upon an *ex parte* application made by the Registrar under this section, the judge may make an order under subsection (2) appointing a receiver or a receiver and manager or a trustee for a period not exceeding eight days.

Powers of receiver, receiver and manager or trustee

(4) A receiver or a receiver and manager or a trustee of the property of any person or company appointed under this section shall be the receiver or the receiver and manager or the trustee of all the property belonging to the person or company or held by the person or company on behalf of or in trust for any other person or company, and the receiver or the receiver and manager or the trustee has authority, if so directed by the judge, to wind up or manage the business and affairs of the person or company and all powers necessary or incidental thereto.

(5) An order made under this section may be enforced in the same manner as any order or judgment of the Court and may be varied or discharged upon an application made by notice. 1970 (3rd) c. 1, s. 22.

Enforcement of order

PART III

REGULATION OF TRADING

23. (1) No person or company shall trade in any security issued by a mining company, investment company, industrial company either on his own account or on behalf of any other person or company until there has been filed with and accepted by the Registrar a prospectus in respect of the offering of the security and a receipt therefor in writing has been obtained from the Registrar or the Registrar has ordered a prospectus need not be filed.

Prohibition as to trading

(2) A prospectus shall not be accepted by the Registrar unless it is completed in accordance with this Ordinance and the regulations.

Prohibition

(3) A prospectus shall be dated and signed by everyone who, at the time of the filing thereof with the Registrar, is a director or promoter of the company that issued or will issue the security, or is an underwriter or optionee of the security.

Signatures

(4) A prospectus shall contain a full, true and plain disclosure relating to the security to be traded and,

Content of prospectus

- (a) if the company that issued or will issue the security is a mining company, shall be in accordance with Schedule A of the regulations;
- (b) if the company that issued or will issue the securities is an investment company, shall be in accordance with Schedule B of the regulations; or
- (c) if the company that issued or will issue the security is an industrial company, shall be in accordance with Schedule C of the regulations.

(5) Where, after the filing of a prospectus and the issuance of a receipt therefor by the Registrar under subsection (1) a change occurs that causes to be incorrect or misleading any material information in a prospectus, financial statement or report filed under this Ordinance and relating to the security being traded, a new or amended prospectus, financial statement or report shall be filed with the Registrar within twenty days of the occurrence of the change, signed by the signato-

Corrections

ries to the first prospectus filed with the Registrar, and where there has been a change of directors, promoters or underwriters in the meantime, the Registrar shall decide upon the necessary signatories.

Prospectus of
other province

(6) The Registrar may accept a form of prospectus and any amendments, or a statement of material facts that is in accordance with the law of another province if, in his opinion, the prospectus and amendments or the statement of material facts contains full, true and plain disclosure relating to the security to be traded and is accompanied by proof of filing of the prospectus and amendment or the statement of material facts in the other province. 1970 (3rd) c. 1, s. 23; 1971 (3rd) c. 10, s. 2.

Delivery of
prospectus

24. (1) A person or company registered for trading in securities under this Ordinance who or that receives, an order subscription or request for a security to which section 23 is applicable shall deliver or cause to be delivered to the prospective purchasers:

- (a) a copy of the last prospectus or statement of material facts relating to the security filed with the Registrar;
- (b) a copy of the last financial statement and reports filed with and accepted by the Registrar; and
- (c) a fair and accurate summary of the report on the property of the company that issued the security and the development thereof, with all appropriate corrections.

Delivery before
confirmation

(2) The delivery under subsection (1) shall be made before delivery of the written confirmation under section 28. 1970 (3rd) c. 1, s. 24.

Rescission of
contract

25. (1) A person who has entered into a contract for the purchase of a security to which section 23 applies is entitled to rescission of the contract where

- (a) section 24 has not been complied with;
- (b) written notice of intention to commence an action for rescission of the contract on the person who contracted to sell the security within sixty days of the date of delivery of the written confirmation of the sale of the security; and
- (c) the purchaser is still the owner of the security.

Onus

(2) In an action for rescission under subsection (1) the onus of proving compliance with section 24 is upon the person who, under the contract, was or would be the seller of the securities.

(3) No action shall be commenced under this section after the expiration of three months from the date of service of the notice under subsection (1). Limitation of action

(4) Every prospectus or statement of material facts shall contain a statement of the rights given to a purchaser by this section. 1970 (3rd) c. 1, s. 25; 1971 (3rd) c. 10, s. 4. Statement in prospectus

26. (1) A person or company that is a party to a contract as purchaser resulting from the offer of a security to which section 23 applies has a right to rescind the contract while still the owner of the security if the prospectus, any amendment to the prospectus or the statement of material facts then filed with the Registrar in compliance with section 23 received by the purchaser as of the date of receipt, contains an untrue statement of material fact or omits to state a material fact necessary in order to make any statement therein not misleading in the light of the circumstances in which it was made. Right to rescind

(2) No action by the purchaser shall be commenced under this section after the expiration of ninety days Period of limitation

- (a) where a prospectus or amended prospectus has been received by the purchaser from the later to occur of the receipt of the prospectus or amended prospectus, or the date of the contract referred to in subsection (1); or
- (b) where a statement of material facts has been received, from the later to occur of the receipt of the statement of material facts, or the date of the contract referred to in subsection (1). 1971 (3rd) c. 10, s. 5.

(3) Subsection (1) does not apply to an untrue statement of a material fact or an omission to state a material fact Where subsection (1) does not apply

- (a) if the untruth of the statement or the fact of the omission was unknown to the person or company whose securities are being offered by the prospectus or statement of material facts, and in the exercise of reasonable diligence, could not have been known to the person or company;
- (b) if the statement or omission is disclosed in an amendment to a prospectus or statement of material facts filed in compliance with section 23 and the amendment to the prospectus or statement of material facts was received by the purchaser; or
- (c) if the purchaser knew of the untruth of the statement or knew of the omission at the time he purchased the security.

No derogation of rights

(4) The cause of action conferred by this section is in addition to and without derogation from any other right the purchaser may have at law.

Prospectus shall contain statement of right of rescission

(5) Every prospectus or amended prospectus, or statement of material facts shall contain a statement of the right of rescission provided by this section.

Time of receipt

(6) For the purpose of this section, where a prospectus, a statement of material facts, or any amendment thereto is sent by prepaid mail, it shall be deemed to be received in the ordinary course of mail by the person or company to whom it was addressed. 1970 (3rd) c. 1, s. 26; 1971 (3rd) c. 10, s. 5. 6. 7.

Voidability of short sales

27. (1) Where a broker contracts with a client or customer to buy and carry for him upon margin any security, whether in the Territory or elsewhere and, while the contract continues, sells or causes to be sold securities of the same kind for any account in which he, or in the case of a partnership, his firm or a partner thereof, or in the case of a company, the company or a director thereof, has a direct or indirect interest, the contract shall at the option of the client or customer be void, and the client or customer may recover from the broker all moneys paid with interest thereon, and all securities deposited in respect thereof, if the effect of any such sale shall otherwise than unintentionally be to reduce the amount of such securities in the hands of the broker or under his control in the ordinary course of business below the amount of such securities which he should be carrying for all clients or customers.

Exercise of option

(2) The client or customer may exercise his option under subsection (1) by a registered letter to that effect mailed to the broker at his address for service in the Territory with a copy thereof to the Registrar. 1970 (3rd) c. 1, s. 27.

Confirmation of customer's transaction

28. (1) Every broker who has acted as an agent or principal in a trade in a security shall promptly send or deliver to each client or customer, for whom any security has been bought or sold by the broker, a written confirmation of the transaction, setting forth:

- (a) the quantity and description of the security;
- (b) the consideration;
- (c) the name of the person or company, from, to, or through whom the security was bought or sold;
- (d) the day and, in the case of a member of a stock exchange, the name of the stock exchange upon which the transaction took place;

- (e) whether or not the broker is acting as principal or agent;
- (f) the commission, if any, charged in respect of the purchase or sale; and
- (g) the name of the salesman, if any, in the purchase or sale. 1970 (3rd) c. 1, s. 28.

29. (1) No person shall,

- (a) call at any residence; or
- (b) telephone from within the Territory to any resident within or outside of the Territory for the purpose of trading in any security with any member of the public.

Calling at the residences for purpose of trading prohibited

(2) In this section,

- (a) the word "residence" includes any building or part of a building in which the occupant thereof resides, either permanently or temporarily, and any premises appurtenant thereto, but does not include an office used for business purposes; and
- (b) the word "public" does not include,
 - (i) close personal friends;
 - (ii) business associates;
 - (iii) customers with whom the person who calls for the purpose of trading in securities who has completed at least five trades in the past in the course of regular business in the sale of or obtaining subscriptions for securities, or
 - (iv) any person who has received a prospectus and who subsequently makes a request in writing, signed by himself, for further information with respect to the securities described in the prospectus.

(3) This section does not apply to a trade in a security in which trust funds may be invested under the *Trustee Ordinance* or a trade in a security exempted by the regulations or by the Registrar. 1970 (3rd) c. 1, s. 29.

30. (1) No person shall advertise by publishing in any newspaper, magazine, or periodical, or by any written or printed matter displayed to any person, an opportunity for employment coupled with an invitation to purchase securities, or any offer of employment in consideration of a loan, without the approval of the Registrar in writing having been first obtained. 1970 (3rd) c. 1, s. 30.

Advertisement of opportunity for employment with investment

Investment
counsel or
securities adviser

31. (1) No person shall carry on business or describe himself as an investment counsel or securities adviser unless he is registered under this Ordinance as a broker. 1970 (3rd) c. 1. 31.

Representation
of approval by
Commissioner or
Registrar
prohibited

32. (1) No person shall make any representation, written or oral, that the Commissioner or Registrar has in any way passed upon the financial standing, fitness, or conduct of any broker, security-issuer, salesman or person or upon the merits of any security offered for sale by any broker, security-issuer, salesman, or person. 1970 (3rd) c. 1, s. 32.

Order to cease
trading

33. (1) Where the Registrar considers it to be in the public interest, he may at any time issue an order prohibiting any person or company to whom the order is addressed, whether such person or company is registered or not, from trading in the securities mentioned in the order for such periods as may be mentioned therein.

Service of order

(2) Every order made under this section shall be served on the person or company to whom it is addressed and forthwith upon receipt of the notice, and so long as the order remains in force, the person or company named therein shall comply with the order.

Copy of order

(3) A copy of the order shall be served on the person or company issuing the security.

Appeal

(4) Any person or company prohibited by any order made under subsection (1) shall have the right of appeal therefrom to the Court if made within thirty days from the date of the mailing of the order to the person or company named therein provided that the Court may give leave to extend the time for appeal beyond the thirty days. 1970 (3rd) c. 1, s. 33.

PART IV

AUDITS

Undertaking to
employ account-
ant

34. (1) Every person or company who or that applies for registration as a broker or security-issuer under this Ordinance shall give to the Registrar, at the time of making application, his or its undertaking in writing to employ an independent accountant satisfactory to the Registrar to audit in each year his or its assets and liabilities and to prepare a balance sheet showing the position of his business and affairs as at a date to be stated in the undertaking. 1970 (3rd) c. 1, s. 34.

35. (1) Every person or company registered under this Ordinance as a broker or security-issuer shall keep whatever books and records are necessary for the proper recording of his business transactions and financial affairs and shall, notwithstanding the requirements of section 34, file with the Registrar annually and at such other time or times as the Registrar may require a financial statement as to his or its financial position, certified by a partner or director of the person or company so registered and reported upon by the auditors of the person or company and such other information as the Registrar may require in such form as may be prescribed. 1970 (3rd) c. 1, s. 35.

Broker & security-issuer to keep records

36. (1) The Registrar or any person or persons directed in writing by him may at any time make an examination of the financial affairs of any person or company registered under this Ordinance as a broker or security-issuer or of any person or company whose securities have been the subject of a filing of a prospectus pursuant to the requirements of this Ordinance, and prepare a balance sheet as of the date of such examination and any other statements and reports required by the Registrar.

Registrar or representative may make financial examination

(2) The Registrar or any person or persons making an examination under this section is entitled to free access to all books of account, securities, cash, documents, bank accounts, vouchers, correspondence, and records of every description of the person or company whose financial affairs are being examined and no person or company shall withhold, destroy, conceal or refuse to give any information or thing reasonably required for the purpose of the examination.

Access to books of account

(3) The Registrar may charge the prescribed fees for any examination made under this section. 1970 (3rd) c. 1, s. 36.

Fees for examination

PART V

GENERAL PROVISIONS

37. (1) A judge of the Court, in exercising any of the powers conferred upon such judge by this Ordinance shall be deemed so to act as a judge of the Court and not as *persona designata*. 1970 (3rd) c. 1, s. 37.

Judge not *persona designata*

38. (1) The provisions of the *Judicature Ordinance* and the *Rules of Court*, so far as they are applicable to proceedings of a like nature, including those relating to appeals and to the

Rules of court to apply

enforcement of judgments and orders, shall apply to every proceeding before the Court or a judge thereof under the provisions of this Ordinance. 1970 (3rd) c. 1, s. 38.

Appointments **39.** (1) The Commissioner may appoint a Registrar and Deputy Registrars of Securities.

Seal for Registrar (2) The Registrar shall have a seal of office, bearing thereon the words "Registrar of Securities, Yukon Territory", which he shall use as occasion may require. 1970 (3rd) c. 1, 39; 1971 (3rd) c. 10, s. 8.

Information under Ordinance to be kept secret **40.** (1) The Registrar and every officer, clerk, or person in or attached to his office shall keep secret all facts and information obtained or furnished under this Ordinance except so far as his public duty requires him to make disclosure thereof, or to report or take official action thereon. 1970 (3rd) c. 1, s. 40.

Protection of persons administering the Ordinance **41.** (1) No action whatever, and no proceedings by way of injunction, mandamus, prohibition or other extraordinary remedy, shall lie or be instituted against any person, whether in his public or private capacity, or against any company in respect of any act or omission in connection with the administration or carrying-out of the provisions of this Ordinance or the regulations where such person is the Commissioner or his representative, or the Registrar, or where such person or company was proceeding under the written or verbal direction or consent of any one of them, or under an order of the Court or a judge thereof made under the provisions of this Ordinance. 1970 (3rd) c. 1, s. 41.

Admissibility in evidence of certified statements **42.** (1) A statement as to

- (a) the registration or non-registration of any person or company;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (c) any other matter pertaining to such registration, non-registration, filing or non-filing or to any such person, document, or material; or
- (d) the date upon which the facts came to the knowledge of the Registrar for the purposes of section 49

purporting to be certified by the Registrar is, without proof of the office or signature of the person certifying, receivable in evidence, so far as relevant, for all purposes in any action, proceeding, or prosecution. 1970 (3rd) c. 1, s. 42.

43. (1) Where a *bona fide* prospector or miner has become the owner of or beneficially entitled to any security in consideration of his work as a prospector or miner, and where the security is in escrow under the control of the Registrar, the Registrar may, in releasing the security from escrow give such priority or preference to the prospector or miner as the Registrar may deem advisable. 1970 (3rd) c. 1, s. 43.

Power to give priority to prospector or miner

44. (1) Any person may inspect and may require a copy or extract of any document or a certificate of any registration on payment of the prescribed fee and may require the copy or extract to be certified by the Registrar as a true copy or extract on payment of the prescribed fee but the provisions of this subsection shall not extend to any document which in the opinion of the Registrar is of a confidential nature. 1970 (3rd) c. 1, s. 44.

Inspection and copies of documents

45. (1) The Commissioner and Registrar in their official capacities shall not be bound to attend out of their offices as witnesses for examination, or to produce out of their offices any document kept or filed with them as such Commissioner or Registrar under this Ordinance, in pursuance of any subpoena, order, or summons issued from any Court, whether such subpoena, order, or summons is directed to him personally or in his official capacity; but the Commissioner or Registrar may be examined and documents produced under a commission or otherwise at his office. 1970 (3rd) c. 1, s. 45.

Commissioner and Registrar not bound to attend out of office as witness

46. (1) The Commissioner may make regulations in respect of any matter arising out of the provisions of this Ordinance. 1970 (3rd) c. 1, s. 46.

Power to make regulations

47. (1) All fees paid to the Registrar in pursuance of this Ordinance and all costs of investigation payable under section 51 of this Ordinance shall be paid by him into the Yukon Consolidated Revenue Fund in full. 1970 (3rd) c. 1, s. 47.

Fees, etc. to be paid into Y.C.R.F.

48. (1) Every person or company who or that,

Offences general

(a) makes a statement in any material evidence, or information submitted or given under this Ordinance or the regulations to the Commissioner, his representative, or the Registrar, or to any person appointed to make an investigation or audit under this Ordinance, that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact the omission of which makes the statement false or misleading;

- (b) makes a statement in any application, report, prospectus, return, financial statement, or other document required to be filed or furnished under this Ordinance or the regulations that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact the omission of which makes the statement false or misleading;
- (c) contravenes this Ordinance or the regulations; or
- (d) fails to observe or comply with any order, direction, or other requirement made under this Ordinance or the regulations,

commits an offence and on summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a term of not more than one year, or to both fine and imprisonment.

Defence

(2) No person or company commits an offence under paragraph (1)(a) or (1)(b) if he or it did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Directors and officials

(3) Where a company commits an offence under subsection (1), every director or official of such company who authorized, permitted, or acquiesced in such offence also commits an offence and on summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a term of not more than one year, or to both fine and imprisonment.

Companies maximum fine

(4) Notwithstanding subsection (1), where a company is convicted thereunder, the maximum fine that may be imposed is twenty-five thousand dollars, 1970 (3rd) c. 1, s. 48.

Consent of Commissioner

49. (1) No prosecution for an offence under this Ordinance shall be instituted except with the consent or under the direction of the Commissioner or his authorized officer.

Time limitation

(2) Unless otherwise provided in this Ordinance no prosecution for an offence under this Ordinance shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Registrar. 1970 (3rd) c. 1, s. 49.

Endorsement of warrants of arrest in other jurisdictions

50. (1) Where a Police Magistrate or Justice of a province issues a warrant for the arrest of any person on a charge of violating any provision of any Statute of that province similar to this Ordinance, any Magistrate or Justice of the

Territory within whose jurisdiction that person is or is suspected to be may, upon satisfactory proof of the handwriting of the Police Magistrate or Justice who issues the warrant, make an endorsement thereon in the form prescribed by the regulations, and a warrant so endorsed shall be sufficient authority to the person bringing the warrant, and to all other persons to whom it was of originally directed, and to all police constables or peace officers within the territorial jurisdiction of the Police Magistrate of Justice so endorsing the warrant to execute it within that jurisdiction and to take the person arrested thereunder either out of or any where in this Territory and to rearrest such person anywhere in this Territory.

(2) Any police constable or peace officer of this Territory or any province who is passing through this Territory, having in his custody a person arrested in another territory or province, under a warrant endorsed in manner provided by subsection (1) shall be entitled to hold, take, and rearrest the accused anywhere in this Territory under such warrant without proof of the warrant or the endorsement thereof. 1970 (3rd) c. 1, s. 50.

51. (1) Where, in consequence of an investigation under Part II any person has been

Collection of
costs of inves-
tigation

- (a) convicted of a criminal offence;
- (b) convicted of an offence against this Ordinance or the regulations;
- (c) enjoined by an order made under section 20; and
- (d) found to be committing, to have been about to commit, or to have committed a criminal offence involving fraud or an offence against this Ordinance or the regulations or where for the purposes of an investigation under section 19, the Registrar has under subsection (6) of that section appointed an accountant or other person to make an examination in the course of the investigation, the Commissioner shall be entitled to demand from the person payment of the whole or any part of the investigation or examination.

(2) The Commissioner shall set forth in a certificate signed by him that the investigation or examination was made, the amount demanded under subsection (1) and the name of the person from whom it is demanded and the certificate or a copy thereof certified by the Registrar as a true copy may be filed with the Registrar of the Court and when so filed shall become an order of that Court, and may be enforced as a judgment of the Court against that person for the amount stated in the certificate. 1970 (3rd) c. 1, s. 51.

CHAPTER S-6

SOCIAL ASSISTANCE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Social Assistance Ordinance*. 1967 (2nd) c. 5, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“Appeal Board” means the Social Assistance Appeal Board established pursuant to section 11; “Appeal Board”

“Appeal Committee” means a Social Assistance Appeal Committee established pursuant to section 10; “Appeal Committee”

“assistance” means aid of the kind prescribed in the regulations to or in respect of a person in need; “assistance”

“Director” means the Director of Social Welfare of the Territory; “Director”

“person in need” means a person whose need for assistance has been established in accordance with the regulations; and “person in need”

“welfare services” means services of the kind prescribed in the regulations having as their object the lessening, removal or prevention of the causes and effects of poverty, child neglect or dependence on public assistance. 1967 (2nd) c. 5, s. 2. “welfare services”

ADMINISTRATION

3. (1) There shall be a Director of Social Welfare for the Territory to be appointed by the Commissioner. 1967 (2nd) c. 5, s. 3. Director of Social Welfare

4. (1) The Director shall, under the direction of the Commissioner, administer this Ordinance and perform such other duties and functions as the Commissioner may prescribe. 1967 (2nd) c. 5, s. 4. Duties of Director

5. (1) The Commissioner may designate any person in the Territory to be a social welfare officer for such area as the Social welfare officer

Commissioner may designate and may prescribe the duties and functions of such officer. 1967 (2nd) c. 5, s. 5.

AGREEMENTS

- Agreements** **6.** (1) Subject to this Ordinance, the Commissioner may enter into an agreement with the Minister of National Health and Welfare to provide for the payment by Canada to the Territory of contributions in respect of the cost to the Territory of providing
- (a) assistance to persons in need ; and
 - (b) welfare services to or in respect of persons in need or persons who are likely to become persons in need unless such services are provided. 1967 (2nd) c. 5, s. 6 ; 1969 (3rd) c. 5, s. 1.
- Terms and conditions** **7.** (1) An agreement entered into pursuant to section 6 may contain such other terms and conditions as the Commissioner deems necessary and may be amended or terminated at any time by mutual consent of the parties thereto. 1967 (2nd) c. 5, s. 7.

ASSISTANCE

- Assistance** **8.** (1)
- (a) The Director shall, in accordance with the Regulations, grant assistance to any person in need in the Territory or to any person in need who is, in accordance with an arrangement approved by the Director, outside the Territory.
- Welfare services** (b) The Director may, in accordance with the Regulations, provide welfare services to any eligible person living in the Territory or to any such person who is, in accordance with an arrangement approved by the Director, outside the Territory. 1967 (2nd) c. 5, s. 8 ; 1969 (3rd) c. 5, s. 2.

REGULATIONS

- Regulations** **9.** (1) The Commissioner may make such regulations as he deems necessary to carry out the provisions of this Ordinance and without limiting the generality of the foregoing may make regulations,
- (a) prescribing, for the purposes of this Ordinance, the kinds of aid that constitute assistance and the kind of services that are welfare services ;
 - (b) prescribing the amount of assistance that may be given to persons in need ;

- (c) prescribing conditions of eligibility to receive assistance;
- (d) governing the time and manner of making applications for assistance;
- (e) prescribing the information, material or proof, including evidence under oath, that is to be furnished before assistance is given;
- (f) respecting the investigation of applications in order to determine the eligibility of the applicants to receive assistance, and prescribing the procedure to be followed in the consideration of all information, material and evidence submitted;
- (g) prescribing the manner in which an applicant for assistance shall be informed as to whether his application has been granted or refused;
- (h) prescribing the time within and manner in which assistance shall be given, and the forms to be used under this Ordinance;
- (i) prescribing the circumstances or conditions under which assistance shall be terminated or the amount of any assistance altered; and
- (j) respecting the information and material to be furnished from time to time by recipients as to their continued eligibility for assistance.
- (k) prescribing the manner in which welfare services may be provided;
- (l) prescribing the manner in which appeals shall be dealt with pursuant to section 12;
- (m) prescribing the manner of informing applicants for and recipients of assistance of their responsibilities and rights under the Ordinance and Regulations; and
- (n) respecting the obligations of the Territory under an agreement made pursuant to section 6. 1967 (2nd) c. 5, s. 9; 1969 (3rd) c. 5, s. 3.

APPEAL COMMITTEES

10. (1) The Commissioner shall establish one or more Social Assistance Appeal Committees for the purpose of hearing appeals under this Ordinance in such areas as he may designate.

Social Assistance
Appeal Committees

(2) Each Appeal Committee shall consist of a chairman and two other members to be appointed by the Commissioner.

Composition of
Appeal Committee

Quorum (3) Two members of an Appeal Committee constitute a quorum. 1967 (2nd) c. 5, s. 10; 1969 (3rd) c. 5, s. 4.

APPEAL BOARD

Social Assistance Appeal Board 11. (1) There shall be a Board to be known as the Social Assistance Appeal Board, consisting of a chairman and four other members to be appointed by the Commissioner.

Meeting of Board (2) The Appeal Board shall meet at such times and at such places in the Territory as the chairman may determine.

Quorum (3) Three members of the Appeal Board constitute a quorum. 1967 (2nd) c. 5, s. 11.

APPEALS

Persons who may appeal 12. (1) Any applicant for or recipient of assistance under this Ordinance may appeal any decision made by a social welfare officer or the Director with respect to his eligibility to receive assistance or the amount of assistance paid to him.

Appeal firstly to Appeal Committee (2) Each appeal made under subsection (1) shall be made in the first instance to the Appeal Committee for the area in which the person resides.

Appeal to Appeal Board (3) Any applicant for or recipient of assistance or the Director may appeal any finding of an Appeal Committee to the Appeal Board.

Appeal may be in person or by counsel (4) Every person making an appeal before an Appeal Committee pursuant to subsection (2) or the Appeal Board pursuant to subsection (3) shall be entitled to appear in person and may be represented by an agent or by counsel. 1967 (2nd) c. 5, s. 12; 1969 (3rd) c. 5, s. 5.

Expenses and Allowances of members of Appeal Committee & Appeal Board 13. (1) Each member of an Appeal Committee and each member of the Appeal Board shall be paid reasonable traveling and living expenses incurred by him in the performance of his duties in connection with the work of the Appeal Committee or Appeal Board and may be paid a per diem allowance fixed by the Commissioner for each day he is engaged in the work of the Appeal Committee or Appeal Board. 1967 (2nd) c. 5, s. 13; 1969 (3rd) c. 5, s. 6.

Recovery of over-payment 14. (1) Where a person has received assistance for which he is not eligible or assistance in an amount in excess of the amount of assistance to which he is eligible, the amount thereof or the excess amount, as the case may be, may be recovered at any time as a debt due to the Commissioner or

may be retained, in whole or in part, out of any subsequent amount payable to that person as assistance. 1967 (2nd) c. 5, s. 14.

15. (1) Every person who, for the purpose of obtaining assistance under this Ordinance for himself or for any other person, knowingly makes a false or misleading statement commits an offence punishable on summary conviction. 1967 (2nd) c. 5, s. 15. Offence

CHAPTER S-7

SOCIETIES ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Societies Ordinance*. Short title
R.O. 1958, c. 101, s. 1.

INTERPRETATION

2. In this Ordinance Definitions
- “by-laws” means the by-laws prescribing regulations for a “by-laws”
society ;
- “Commissioner” means the Commissioner of the Yukon “Commissioner”
Territory ;
- “constitution” means the constitution established for a socie- “constitution”
ty under the provisions of this Ordinance ; and in applying
the word to a society subject to the Ordinance repealed by
this Ordinance means the declaration for incorporation of
that society or other similar document ;
- “declaration” means the declaration for incorporation of a “declaration”
society incorporated under the Ordinance repealed by this
Ordinance, and includes the declaration for incorporation
and any other similar document of a society or association
to which section 59 applies ;
- “director” includes trustee, officer, member of an executive “director”
committee and any person occupying such position by
whatever name called ;
- “document” includes notice, order, summons and other legal “document”
process and registers ;
- “extraordinary resolution” means a resolution passed by a “extraordinary
resolution”
majority 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, such majority being either three-fourths or two-
thirds, according as the by-laws provide, and in the absence
of such provision a majority of three-fourths ;
- “Registrar” means the Registrar of Companies or other duly “Registrar”
authorized person performing his duties ;

- "society" "society" means a society incorporated under this Ordinance, and includes a society to which section 59 applies;
- "subscription" "subscription" includes fee, due, assessment or other like sum payable by a member under the by-laws of a society. R.O. 1958, c. 101, s. 2.

INCORPORATION

- Objects of society **3.** (1) A society may be incorporated under this Ordinance to promote any object of a national, patriotic, religious, philanthropic, charitable, provident, scientific, artistic, educational, social, professional, agricultural or athletic character or any useful object, but not for the purpose of carrying on any trade, industry or business. R.O. 1958, c. 101, s. 3.
- No power to grant degrees **4.** (1) No society shall have power to grant or confer any degree or diploma of literary, technical or scientific standing. R.O. 1958, c. 101, s. 4.
- No personal liability **5.** (1) No member of a society is, in his individual capacity, liable for any debt or liability of the society. R.O. 1958, c. 101, s. 5.
- No share capital or dividends **6.** (1) No society shall have a capital divided into shares or declare any dividend or distribute its property among the members during the existence of the society, and the interest of a member in a society shall not be transferable. R.O. 1958, c. 101, s. 6.
- Application for certificate **7.** (1) Any five or more persons proposing to incorporate a society shall make and subscribe, in duplicate, according to the Form in Schedule I, the constitution and by-laws of the society, and shall transmit the same with the proper fees to the Registrar, together with a list of the persons appointed by the subscribers to act as the first directors of the society, stating their full names, addresses and occupations and the period for which they will so act; a notice setting forth the address of the society, and, if the Registrar requires it, the consent of an existing society to the incorporation.
- Registrar to issue certificate of incorporation **(2)** Where the objects of the society do not appear to the Registrar to be within the scope of this Ordinance or to be sufficiently set forth, he may require that the objects be altered accordingly, but where the constitution and by-laws appear to the Registrar to comply with this Ordinance, he shall issue under his seal of office a certificate showing that the society is incorporated and stating the locality in which its operations will be chiefly carried on; except that incorpo-
- May be refused

ration may after investigation be refused by the Registrar, but an appeal may be taken from his refusal to the Commissioner; and, in the case of a society whose objects include that of operating a social club, the Registrar shall not issue a certificate unless the written consent of the Commissioner to incorporation is filed with the Registrar.

Appeal from refusal

Social Club

(3) Upon incorporation the Registrar shall retain and register one copy of the constitution and by-laws and return the other copy to the applicants, certified as having been registered by him, and shall forthwith at the cost of the applicants publish the certificate with a statement of the objects of the society in one issue of the *Yukon Gazette*.

Copy of constitution and by-laws registered

Certificate published

(4) A certificate of incorporation given by the Registrar in respect of a society shall be conclusive evidence that the requirements of this Ordinance in respect of incorporation have been complied with, and that the society is duly incorporated according to the provisions of this Ordinance. R.O. 1958, c. 101, s. 7.

Certificate conclusive evidence that Ordinance complied with

8. (1) From the date of the certificate of incorporation the subscribers to the constitution and by-laws, and such other persons as may from time to time become members of the society, shall be a body corporate by the name therein described, having perpetual succession and the right to a common seal, and with such powers as its constitution entitles it to, subject to this Ordinance. R.O. 1958, c. 101, s. 8.

A body politic and corporate

POWERS

9. (1) A society may sue and be sued, contract and be contracted with, in its corporate name.

To contract

(2) A society may adopt a common seal and alter or change the same at its pleasure, but shall in all cases have its name engraved in legible characters on its common seal. R.O. 1958, c. 101, s. 9.

Common seal

10. (1) A society may acquire and take by purchase, donation, devise or otherwise land and personal property, and may sell, exchange, mortgage, lease, let, improve and develop the same and may erect and maintain any necessary buildings. R.O. 1958, c. 101, s. 10.

Re real property

11. (1) The funds and property of the society shall be used and dealt with for its legitimate objects only and in accordance with its by-laws, and a society shall invest its

Funds

funds only in securities in which trustees are for the time being authorized by law to invest. R.O. 1958, c. 101, s. 11.

**Borrowing
powers**

12. (1) For the purpose of carrying out its objects, a society may borrow or raise or secure the payment of money in such manner as it thinks fit, and in particular by the issue of debentures, but none of these powers shall be exercised except in accordance with the provisions of the by-laws of the society, and debentures shall not be issued without the sanction of an extraordinary resolution of the society. R.O. 1958, s. 101, s. 12.

Bills of exchange

13. (1) For the purpose of carrying out its objects, a society may, subject to its by-laws, draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments. R.O. 1958, c. 101, s. 13.

**Association with
other societies**

14. (1) A society may, if authorized so to do by an extraordinary resolution, subscribe to, become a member of and co-operate with any other society or association, whether incorporated or not, whose objects are in whole or part similar to its own objects. R.O. 1958, c. 101, s. 14.

**Alteration of
objects, name or
locality**

15. (1) A society, by extraordinary resolution, may change its name or its objects so as to include some object or objects that may conveniently or advantageously be combined with the existing objects of the society, or so as to restrict or abandon any object specified in the constitution or the locality in which its operations are chiefly carried on.

**Registrar's
approval
necessary**

(2) No resolution pursuant to subsection (1) shall take effect unless it is approved by the Registrar, and the Registrar shall not give his approval unless, in the case of a resolution for a change of the locality in which its operations will be chiefly carried on by a society whose objects include, or by virtue of the resolution will include, that of operating a social club, the resolution has been consented to in writing by the Commissioner.

**Certificate of
approval**

(3) When the Registrar has given his approval to the resolution he shall issue a certificate under his seal of office setting forth particulars of the change.

Publication

(4) A notice of any alteration under this section shall, if the Registrar thinks it advisable, be published in the *Yukon Gazette* by the Registrar at the cost of the society.

(5) Where a society is in default in respect of any requirement of this Ordinance the Registrar may refuse to issue any certificate under this section. Certificate may be refused

(6) Any certificate issued by the Registrar pursuant to this section shall be conclusive evidence that the requirements of this section have been complied with. R.O. 1958, c. 101, s. 15. Certificate evidence that this section complied with

16. (1) A change of name shall not affect any rights or obligations of the society, or render defective any legal proceedings by or against the society, 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. R.O. 1958, c. 101, s. 16. Change in name not to affect obligations of society

17. (1) Where the constitution of a society contains any provision other than the statement of its name, objects and locality of operations, that provision shall be unalterable and the constitution shall so state. R.O. 1958, c. 101, s. 17. Unalterable provisions of constitution

18. (1) A society to which section 59 applies has power in addition to the powers conferred by section 15, to alter or rescind, by extraordinary resolution, any provision of its declaration. R.O. 1958, c. 101, s. 18. Power of existing society to alter any provision of its declaration

19. (1) A society may, if authorized by its by-laws, establish and maintain one or more branch societies which shall have such powers, not exceeding the powers of the society, as the society may from time to time confer. Branch societies

(2) Where a society establishes a branch society, it shall forthwith send to the Registrar a notice setting forth the date on which the branch society was authorized, its title, locality and powers, and such other information as the Registrar may require, and shall likewise notify the Registrar when any branch ceases to exist. Notice to Registrar

(3) Subsection (1) does not apply to a society whose objects include that of operating a social club. R.O. 1958, c. 101, s. 19. Society operating club may not establish branch society

20. (1) Where a branch of an incorporated or unincorporated society desires to be incorporated under this Ordinance, it shall, in addition to any other requirement of this Ordinance, file with the Registrar a certificate under the seal, if any, of that society consenting to such incorporation, and shall comply with any term or condition mentioned in the certificate. Incorporation of a branch of a society

(2) No branch society so incorporated may exercise any power conferred on a society under this Ordinance, if the exercise of such power is prohibited by or in conflict with the constitution or by-laws of the society to which it belongs or any term or condition of the certificate filed under subsection (1), without first obtaining the written consent of that society.

(3) Where the certificate filed under subsection (1), so provides, the constitution and by-laws of the branch society shall be deemed to include the constitution and by-laws of the society giving the certificate, or the portion thereof mentioned in the certificate, but in no case shall the powers of a branch society exceed the powers permitted to a society by this Ordinance. R.O. 1958, c. 101, s. 20.

Contracts of a
society

21. (1) Contracts on behalf of a society may be made as follows:

- (a) any contract that, if made between private persons, would be by law required to be in writing and under seal may be made on behalf of the society in writing under the common seal of the society, and may in the same manner be varied or discharged ;
- (b) any contract that, if made between private persons, would be by law required to be in writing, signed by the persons to be charged therewith, may be made on behalf of the society 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 that, 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 society by any person acting under its authority, express or implied, and may in the same manner be varied or discharged.

(2) All contracts made, varied or discharged according to this section shall so far as concerns the form thereof be effectual in law and binding on the society and all other parties thereto.

(3) A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of a society, if made, accepted or endorsed in the name of, or by or on behalf of, or on account of the society by any person acting under its authority, express or implied. R.O. 1958, c. 101, s. 21.

ADMINISTRATION

22. (1) The members of a society shall be the subscribers of the constitution and by-laws and those persons admitted to membership therein according to the by-laws. Members

(2) Subject to the provisions of the by-laws,

(a) a person under the age of twenty-one years may be admitted as a member of a society or appointed to any office therein, and shall be liable for the payment of a subscription as if he were of full age;

(b) a corporation admitted to membership in a society may be represented by some person authorized on behalf of the corporation; and

(c) every member of a society shall have a vote.

(3) No member shall be entitled to vote on an extraordinary resolution unless he is in good standing in accordance with the by-laws.

(4) Permanent proxies or proxies entitling any person or member to vote at other than one meeting or any adjournment shall be invalid. R.O. 1958, c. 101, s. 22. Permanent proxies invalid

23. (1) The by-laws of a society incorporated under this Ordinance shall contain provisions in respect of the several matters mentioned in Schedule II. Matters to be contained in by-laws

(2) The by-laws of a society shall not be altered or added to except by an extraordinary resolution of the society. Alteration of by-law

(3) Every such resolution shall be filed in duplicate with the Registrar, who shall register one copy and return the other copy, certified as having been registered by him. Filed with Registrar

(4) Nothing that is in conflict with the constitution of a society shall be included in the by-laws, and the by-laws shall not contain anything contrary to law. R.O. 1958, c. 101, s. 23. By-laws not to conflict with constitution

24. (1) Subject to the by-laws, the members of a society may nominate, elect or appoint any of its members as directors for conducting the business, discipline and management of the society and its affairs. Directors

(2) Subject to this Ordinance and the by-laws, the directors may exercise all the powers of a society. R.O. 1958, c. 101, s. 24.

25. (1) A society may require any director or officer to give such security as may from time to time be deemed Director may be required to give security

sufficient for the faithful discharge of his duties. R.O. 1958, c. 101, s. 25.

By-laws may provide for arbitration of disputes

26. (1) The by-laws of a society may provide that any dispute arising out of the affairs of the society, between any members thereof or between a member, or any person aggrieved who has for not more than six months ceased to be a member, or any person claiming through such member or person aggrieved, or claiming under the by-laws, and the society or a director or officer thereof, shall be decided by arbitration, which shall be under the *Arbitration Ordinance* unless the by-laws prescribe some other method. R.O. 1958, c. 101, s. 26.

Fines for contravention of by-laws

27. (1) A society may by its by-laws impose a fine not exceeding five dollars on any member who has contravened any by-laws of the society.

(2) Any fine may be recovered as a debt due from the member to the society, and all fines so recovered shall belong to the society. R.O. 1958, c. 101, s. 27.

DUTIES AND OBLIGATIONS

Address for service

28. (1) Every society shall have an address in the Territory to which all communications and notices may be sent and at which all process may be served, and shall file with the Registrar notice of every change therein within fourteen days after the change is made. R.O. 1958, c. 101, s. 28.

General meetings in Y.T.

29. (1) Every general meeting of a society shall be held in the Territory. R.O. 1958, c. 101, s. 29.

Annual general meeting

Annual statement filed with Registrar

30. (1) Every society shall hold an annual general meeting, and shall on or before the 28th day of February in each year file with the Registrar a statement in the form of a balance-sheet containing general particulars of its liabilities and assets, and a statement of its income and expenditures audited and signed by the auditor of the society, or, if there is no auditor, by two directors, R.O. 1958, c. 101, s. 30.

Annual list of directors filed with Registrar

31. (1) Every society shall file with the Registrar with its annual statements a list of its directors, with their addresses and occupations, and also, upon request of the Registrar, at any time, furnish him with particulars of its directors; the list of directors shall state the date of the appointment or election of each director. R.O. 1958, c. 101, s. 31.

32. (1) Every society shall keep in one or more books a register of its members, and shall enter therein the names of the subscribers of the constitution and by-laws and the name of every other person who is admitted as a member of the society, together with the following particulars:

Register of members

- (a) the full name, address and occupation of every such subscriber and person;
- (b) the date on which each person is admitted as a member; and
- (c) the date on which any person ceases to be a member.

(2) Every society that fails to comply with this section commits an offence against this Ordinance. R.O. 1958, c. 101, s. 32.

33. (1) Every society shall file with the Registrar, in duplicate, every extraordinary resolution, and he shall register one copy and return the other, certified as having been registered by him. R.O. 1958, c. 101, s. 33.

Copy of every extraordinary resolution filed with Registrar

34. (1) Every notice, return or resolution required to be filed with the Registrar shall be authenticated by a director, secretary or other authorized officer of the society. R.O. 1958, c. 101, s. 34.

Authentication

35. (1) Every society shall furnish to a member at his request, and on payment of a sum not exceeding fifty cents, a copy of its constitution and by-laws. R.O. 1958, c. 101, s. 35.

Copy of constitution to be furnished to member on request

DISSOLUTION

36. (1) Upon sufficient cause being shown and upon such conditions and subject to such provisions as may be deemed proper, the Commissioner may revoke and cancel the incorporation of a society and declare the society to be dissolved; and without limiting the generality of the foregoing a conviction obtained against a society for a violation of the provisions of this Ordinance or the regulations made thereunder shall constitute sufficient cause within the meaning of this section. R.O. 1958, c. 101, s. 36; 1967 (1st) c. 17, s. 1.

Revocation and cancellation of incorporation

37. (1) A society may, by extraordinary resolution, surrender its certificate of incorporation, and the Registrar may, after being satisfied that sufficient notice of the society's intention has been given and that no debts, liabilities or obligations of the society are outstanding, accept the surrender of the certificate and cancel it, and fix a date from which the society shall be dissolved. R.O. 1958, c. 101, s. 37.

Voluntary surrender of certificate of incorporation

Registrar to notify society after two year period of default in filing

38. (1) Where a society has failed for any period of two years to make or send or file any return, notice or document required to be made or sent to or filed with the Registrar pursuant to this Ordinance or where the Registrar has reasonable cause to believe that a society is not operating, he shall send to the society by post a registered letter enquiring whether such society is in operation and notifying it of its default if any.

Notice of intention to strike off register

(2) If within two months no reply to such letter is received by the Registrar or such society fails to fulfil the lawful requirements of the Registrar or notifies the Registrar that it is not in operation, he may at the expiration of fourteen days send to such society a notice that at the expiration of two months from the date of that notice the name of such society mentioned therein will, unless cause be shown to the contrary, be struck off the register and the society will be dissolved.

Striking off register

(3) At the expiration of the time mentioned in the notice, the Registrar shall, unless cause to the contrary is previously shown by such society, strike the name of such society off the register and shall publish notice thereof in one issue of the *Yukon Gazette* and upon such publication the society shall be dissolved or if an extra-territorial society shall be deemed to have ceased to operate in the Territory, except that the liability, if any, of every director, officer, member or employee of such society shall continue and may be enforced as if the name of such society had not been struck off the register.

Application for restoration to register

(4) Where a society or any member or creditor thereof or any person to whom the society is under any legal obligation is aggrieved by the society having been struck off the register, the Registrar may restore the society to the register on application to him in such form as he prescribes by the society, member or creditor, but the Registrar shall not restore the society to the register unless he is satisfied that the society was at the time of the striking-off in operation or that it is just that the society be restored to the register, and in the case of a society carried on chiefly as a social club unless it has obtained the written consent of the Commissioner; and any returns and other information the Registrar requires shall be filed with him.

Restoration

(5) On compliance with the requirements mentioned in subsection (4) the Registrar may restore the society to the register, and thereupon the society shall be deemed to have continued in existence as if it had not been struck off,

without prejudice to the rights of parties acquired prior to the date on which the society is restored.

(6) Where the application is not made within one year from the date on which the society was struck off, and another society has been incorporated under the same or a similar name, the Registrar shall require the society to take a new name before it is restored.

Name of society
on restoration

(7) A society may be restored for a limited period or for the purpose of carrying out a particular purpose, and after the expiration of that period or the execution of that purpose the society shall again be struck off the register by the Registrar. R.O. 1958, c. 101, s. 38.

Restoration for
limited time

39. (1) The provisions of the *Companies Ordinance* relating to the winding-up of companies apply, *mutatis mutandis*, to a society under this Ordinance, but wherever those provisions prescribe a special resolution, an extraordinary resolution shall be sufficient under this Ordinance. R.O. 1958, c. 101, s. 39.

Winding-up

40. (1) Any two or more societies may amalgamate and form a new society by passing extraordinary resolutions which shall authorize their respective directors to make and subscribe jointly a constitution and by-laws according to the form in Schedule I, and to comply in other respects with section 7.

Amalgamation
of two or more
societies

(2) After the issue of a certificate of incorporation to the new society the former societies shall stand dissolved, and all property and rights of such societies shall pass to and be vested in the new society without any further act or deed, but no amalgamation under this section shall affect the rights of any creditor, and the new society shall be liable for all debts and obligations of the former societies.

Assets and
liabilities to new
society

(3) The estate and interest of the former societies in any land as registered under the *Land Titles Act* shall be registered in the name of the new society. R.O. 1958, c. 101, s. 40.

Land to be
registered in
name of new
society

EXTRA-TERRITORIAL SOCIETIES

41. (1) For the purposes of sections 42 to 50, "extra-territorial society" means a society or association formed outside the Territory, and includes a branch of any such society or association, but does not include a society or association that is formed for the acquisition of gain or that has a capital divided into shares. R. O. 1958, c. 101, s. 41.

"Extra-territori-
al society"
defined

Registration of an extra-territorial society

42. (1) The Registrar may require any extra-territorial society that carries on any operations in the Territory to apply for registration under this Ordinance, and any society so required to apply shall, unless registration is granted, cease to operate in the Territory, and the Registrar shall fix the date after which it shall cease to operate.

(2) Any extra-territorial society may apply for registration under this Ordinance.

(3) An extra-territorial society whose objects include that of carrying on a social club shall not be registered without the written consent of the Commissioner, and every branch of such a society shall, if the Registrar so requires, apply for separate registration and consent. R.O. 1958, c. 101, s. 42.

Granting of certificate of registration to an extra-territorial society

43. (1) Application for registration shall be made to the Registrar according to a form prescribed by him and shall be accompanied by such documents as he requires.

(2) Where the Registrar determines that the requirements of this Ordinance have been complied with and that the society should be registered, he shall issue under his seal of office a certificate showing that the society is registered under this Ordinance as an extra-territorial society, and stating the place of formation or incorporation and the locality in which its operations will be chiefly carried on, and, if he thinks it advisable, shall at the cost of the society publish in one issue of the *Yukon Gazette* a copy of the certificate with a statement of the operations to be carried on in the Territory.

(3) The Registrar may attach to a certificate of registration such conditions and limitations as seem to him advisable; and the extra-territorial society shall comply with and observe these conditions and limitations.

(4) The Registrar may after investigation refuse registration, but an appeal may be taken from his refusal to the Commissioner. R. O. 1958, c. 101, s. 43.

Operation of an extra-territorial society

44. (1) Subject to this Ordinance and the laws of the Territory, an extra-territorial society registered under this Ordinance may, within the Territory, carry on its operations in accordance with its certificate of registration. R.O. 1958, c. 101, s. 44.

Attorney of an extra-territorial society

45. (1) The Registrar may require an extra-territorial society within a time specified by the Registrar to appoint some person resident in the city or place in the Territory where the society will chiefly carry on its operations its

attorney, with authority on its behalf to accept service of process in all suits and proceedings by or against the society within the Territory and to receive all lawful notices to the society.

(2) The society shall within one week after the appointment file a copy of the appointment with the Registrar and the appointment shall contain the name, occupation and address of the attorney.

(3) If the person appointed ceases to act the society shall, within three weeks after he ceases to act, appoint a new attorney, and shall, within one week after the appointment, file a copy of the appointment, and the appointment shall contain the name, occupation and address of the attorney. R.O. 1958, c. 101, s. 45.

46. (1) An extra-territorial society registered under this Ordinance shall file with the Registrar

Statements to be filed by an extra territorial society

- (a) a verified copy of any amendment to its constitution and by-laws or corresponding instrument within one month after the amendment takes effect;
- (b) the notice prescribed by section 28; and
- (c) the statements and list prescribed by sections 30 and 31. R.O. 1958, c. 101, s. 46.

47. (1) The Commissioner may for good cause suspend or revoke the registration of an extra-territorial society under this Ordinance, and may remove or cancel a suspension or revocation, subject to any condition thought advisable. R.O. 1958, c. 101, s. 47.

Suspension and revocation of registration of an extra territorial society

48. (1) No person shall, directly or indirectly, represent or act as agent of an extra-territorial society required by the Registrar to apply for registration under this Ordinance unless the society holds a subsisting certificate or registration. R.O. 1958, c. 101, s. 48.

Prohibition

49. (1) An extra-territorial society not registered as required by this Ordinance 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 part in the Territory in the course of or in connection with its operations. R.O. 1958, c. 101, s. 49.

Non-registered extra-territorial society may not maintain action

50. (1) Sections 51 to 58 and 60 also apply to an extra-territorial society. R.O. 1958, c. 101, s. 50.

Miscellaneous provisions to apply to extra-territorial society

MISCELLANEOUS

Investigation of affairs and conduct of a society

51. (1) Where it appears to the Registrar that a society exists for an illegal purpose, or that a society carried on chiefly as a social club is not conducted in a proper manner or as a *bona fide* club, the Registrar shall report the facts to the Commissioner, and thereupon the Commissioner may appoint by writing under his hand some person to investigate the affairs and conduct of the society and to make a written report to him of his findings.

Powers of investigator

(2) The person so appointed may examine on oath any director, manager, officer, agent or employee of the society or other person in relation to the affairs of the society and may administer an oath accordingly and may require the production of all books and papers of the society, and of all relevant books and papers.

Offence

(3) Every director, manager, officer, agent or employee of the society or other person who on examination under this section refuses to answer any question relating to affairs of the society or to produce any book or paper in his custody commits an offence against this Ordinance.

Order made on report

(4) The Commissioner may upon a report from the Registrar or after an investigation order, subject to such terms and conditions as he thinks advisable, that the society discontinue any illegal action, or, if a social club, conduct itself in a proper manner, as the case may be, and may, subject to such terms and conditions as he thinks advisable, suspend any of the powers of the society. R.O. 1958, c. 101, s. 51.

Documents filed with Registrar open for inspection

52. (1) Any person may inspect the documents filed in the office of the Registrar relating to a society on payment of the prescribed fee for each inspection, and may require a copy or extract or a certified true copy of any document or part thereof on payment of the prescribed fee.

Fee

Certified copy shall be evidence

(2) A copy of or extract from any document filed in the office of the Registrar, certified to be a true copy under the hand and seal of the Registrar, shall in all legal proceedings be admissible in evidence as of equal validity with the original document, and it shall not be necessary to prove the handwriting, seal of office or official position of the person certifying the same. R.O. 1958, c. 101, s. 52; 1971 (1st) c. 20, s. 25 (1).

Service on a society

53. (1) A document may be served on a society by leaving it at or mailing it by registered post to the address of the

society as registered under this Ordinance, or by serving a director or officer of the society. R.O. 1958, c. 101, s. 53.

54. (1) Every society that fails, refuses or neglects to observe or perform any duty or obligation or that violates any restriction or prohibition created or imposed by this Ordinance and the regulations made thereunder commits an offence against this Ordinance. R.O. 1958, c. 101, s. 54. Offence

55. (1) Every society which commits an offence against this Ordinance or the regulations is liable on summary conviction to a penalty not exceeding five hundred dollars. R.O. 1958, c. 101, s. 55. Penalty

56. (1) Where a society is convicted of any offence against this Ordinance or the regulations and the conviction adjudges a pecuniary penalty to be paid by the society, the justice by the conviction after adjudging payment of such penalty with costs may order and adjudge that in default of payment of such penalty forthwith or within a stipulated time such penalty shall be levied by distress and sale of the goods and chattels of the society. Distress for penalty

(2) In any such case and in addition to the other remedies hereby provided, a copy of the conviction or order certified to by any justice or by the officer in whose custody the same is by law required to be kept may be filed in the office of the Clerk of the Court and the conviction or order shall thereupon become a judgment of that Court and all proceedings therefrom may be taken and had as on any other judgment of that Court; nothing herein contained shall be construed as in any way affecting, limiting or restricting any proceedings which otherwise may be taken for the recovery of fines and penalties. R.O. 1958, c. 101, s. 56.

57. (1) Where an offence against this Ordinance or the regulations made thereunder is committed by a society, the officer, agent or employee of the society in charge of the premises in which the offence is committed shall *prima facie* be deemed to be a party to the offence so committed and shall be personally liable to the penalties prescribed for the offence as a principal offender, but nothing in this section shall relieve the society or the person who actually committed the offence from liability therefor. R.O. 1958, c. 101, s. 57. Responsibility of officer, agent and employee of society

58. (1) The Commissioner may prescribe the fees to be charged under this Ordinance. R.O. 1958, c. 101, s. 58; 1971 (1st) c. 20, s. 25(2). Fees

Regulations

59. (1) For the purpose of carrying into effect the provisions of this Ordinance according to their true intent, the Commissioner may make such regulations as he considers necessary or advisable.

(2) Without thereby limiting the generality of subsection (1), the Commissioner may make regulations

- (a) prescribing the terms and conditions of contracts between societies and their employees;
- (b) prescribing the method of inspection of societies' books of accounts and records;
- (c) prescribing the qualifications to be held by any servant or employee of any society;
- (d) prescribing the minimum membership fees and dues payable to any society by its members; and
- (e) in the case of a society whose objects include that of operating a social club, prescribing or limiting the form of social or recreational activity which may be made available to its members. R.O. 1958, c. 101, s. 60.

SCHEDULE I

(Sections 7, 17, 40)

SOCIETIES ORDINANCE

CONSTITUTION

- (1) The name of the Society is
- (2) The object of the Society is (state particulars)
- (3) The operations of the Society are to be chiefly carried on in (state exact locality)

(If any other provisions are added there shall be included a statement that such provisions are unalterable.)

BY-LAWS

(Here set forth in numbered clauses the by-laws providing for the matters referred to in Schedule II and any other by-laws)

Dated the _____ day of _____, 19

(Full names, addresses and occupations of subscribers)

Witness:

(Full name, address and occupation)

R.O. 1958, c. 101, Sched. A.

SCHEDULE II

(Section 23)

(1) Terms of admission of members and their rights and obligations.

(2) Conditions under which membership ceases and manner (if any) in which a member may be expelled.

(3) Month of holding annual general meeting and mode and notice required for calling general and special meetings of the society and number constituting a quorum at any such meeting, and rights of voting.

(4) Appointment and removal of directors and other officers and their duties, powers and remuneration.

(5) Exercise of borrowing-powers.

(6) Audit of accounts.

(7) Custody and use of the seal of the society.

(8) Alteration of by-laws by extraordinary resolution, stating requisite majority.

(9) Preparation and custody of minutes of proceedings of meetings of the society and of the directors, and other books and records of the society.

(10) Time and place (if any) at which the books and records of the society may be inspected by members.

R.O. 1958, c. 101, Sched. B.

CHAPTER S-8

STEAM BOILERS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Steam Boilers Ordinance*. R.O. 1958, c. 102, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“boiler” means a vessel in which steam is generated or contained under pressure and includes all engines, apparatus and appliances connected therewith, but does not include a vessel that is capable of developing, “boiler”

(a) in respect of a school, hospital, church, theatre, hall, auditorium or building where the public assembles, not more than two horsepower, or

(b) in respect of any place except those places mentioned in paragraph (a), not more than five horsepower, and that is less than three cubic feet in capacity ;

“country of the British Commonwealth” means a country of the British Commonwealth as defined in the *Evidence Ordinance*; “country of the British Commonwealth”

“design pressure” means the pressure that a pressure vessel is designed to withstand ; “design pressure”

“engineer” means a person who holds a valid and subsisting engineer’s certificate or a renewal thereof issued under this Ordinance ; “engineer”

“heating surface” means any part of the surface of a boiler or hot-water boiler that is in contact with water on one side and the products of combustion on the other side, and for the purpose of computing the area of heating surface where curved surfaces are involved the surface having the greater radius shall be taken ; “heating surface”

“horsepower” means the power of a boiler or a hotwater boiler calculated, “horsepower”

(a) where the heating surface is regularly shaped, by dividing the number of square feet of heating surface by ten ;

- (b) where the heating medium is electric current, by dividing the maximum kilowatt capacity of the heating element by ten; or
- (c) where the heating surface is irregularly shaped, by multiplying each square foot of fire grate area by one and one-half;
- "hot-water boiler" "hot-water boiler" means a vessel that has a capacity not exceeding three cubic feet and is used for heating water to a temperature not exceeding two hundred degrees Fahrenheit and includes all apparatus and appliances connected therewith but does not include a hot-water boiler,
- (a) in respect of a school, hospital, church, theatre, hall, auditorium or building where the public assembles that is capable of developing not more than two horsepower, and
- (b) in respect of any place other than those places mentioned in paragraph (a), that is capable of developing not more than five horsepower;
- "inspection certificate" "inspection certificate" means a valid and subsisting certificate of inspection of a pressure vessel issued under this Ordinance;
- "inspector" "inspector" means an inspector appointed under section 4;
- "owner" "owner" when used in respect of a pressure vessel or steam plant includes a lessee and a person in charge of the pressure vessel or steam plant;
- "portable boiler" "portable boiler" means a boiler mounted in such a way as to be movable;
- "pressure vessel" "pressure vessel" means a boiler, a hot-water boiler or a receiver;
- "receiver" "receiver" means a vessel used for receiving or containing ammonia or gaseous substances under pressure and all apparatus and appliances connected therewith, but does not include a vessel that
- (a) is less than six inches in diameter or one and one-half cubic feet in volume,
- (b) is operated at less than fifty pounds pressure to the square inch, or
- (c) is used only for compressed air and not over ten cubic feet in capacity; and
- "steam plant" "steam plant" means the complete installation used for generating or utilizing steam and includes any boiler, receiver, pipe, fitting, machinery and other equipment used in connection therewith. R.O. 1958, c. 102, s. 2.

APPLICATION

3. (1) This Ordinance does not apply to pressure vessels that Application

- (a) are part of the equipment of railways subject to the *Railway Act*,
- (b) are subject to inspection under the *Canada Shipping Act* or the *Explosives Act*, or
- (c) are used exclusively for heating private residences that house less than three families.

(2) This Ordinance does not apply to any portable boiler while used for thawing purposes by a person who is the owner and operator of such boiler. R.O. 1958, c. 102, s. 3.

APPOINTMENT OF INSPECTORS

4. (1) The Commissioner may appoint inspectors of pressure vessels. R.O. 1958, s. 102, s. 4. Appointment of inspectors

5. (1) No inspector shall be directly or indirectly interested in the sale of pressure vessels or machinery used in connection therewith. R.O. 1958, c. 102, s. 5. Inspector not to be interested in sale of vessels, etc.

6. (1) An inspector shall, before entering upon the performance of his duties, take and subscribe to an oath that he will faithfully and impartially perform the duties of his office. R.O. 1958, c. 102, s. 6. Oath

INSPECTION OF PRESSURE VESSELS

7. (1) An inspector may at any reasonable time enter upon any lands and into any building where he believes a pressure vessel to be in operation or in the course of construction or repair and may examine it. R.O. 1958, c. 102, s. 7. Inspector may enter upon lands, etc.

8. (1) The owner of a pressure vessel shall allow an inspector free access thereto and furnish him with any information and assistance required to enable him to carry out his duties including where necessary the supplying of water and filling of a pressure vessel therewith and the removing of the jacket or cover of a pressure vessel when directed by the inspector for the purpose of making any test. Owner to assist inspector

(2) A person who operates a pressure vessel shall assist an inspector in his examination thereof and point out to the inspector any defect that he knows of or believes to exist in the pressure vessel. Operator to assist inspector

Work may be done at owner's expense

(3) Where the owner of a pressure vessel fails to furnish an inspector with any assistance required by him pursuant to subsection (1), the inspector may have any work so required performed at the expense of the owner. R.O. 1958, c. 102, s. 8.

LICENSING AND OPERATION OF PRESSURE VESSELS

Operation prohibited without certificate

9. (1) Subject to this Ordinance, no owner shall operate or allow to be operated a pressure vessel unless he holds an inspection certificate for the pressure vessel. R.O. 1958, c. 102, s. 9.

No certificate issued without inspection

10. (1) Subject to subsection (2) and section 13, no inspection certificate shall be issued in respect of

- (a) a pressure vessel other than a receiver described in paragraph (b) unless that pressure vessel has been inspected by an inspector at least once during the year preceding the day on which the certificate is to come into effect, and
- (b) a receiver that is not used in a school, hospital, church, theatre, hall, auditorium or building where the public assembles unless that receiver has been inspected by an inspector at least once during the two years preceding the day on which the certificate is to come into effect.

(2) The Commissioner may order that an inspection required by subsection (1) be dispensed with in respect of a pressure vessel that

- (a) is insured and inspected each year by a duly incorporated boiler insurance company doing business in Canada, if the owner or the insurance company files with the Territorial Secretary a copy of the annual inspection report within thirty days after such inspection; or
- (b) is inspected each year by an inspector employed by the Government of Canada.

Issue of certificate

(3) Where a pressure vessel has been inspected as required under this Ordinance and found to be in good and safe working order, the Territorial Secretary may issue an inspection certificate for the pressure vessel upon payment of the prescribed fee.

Expiration of certificate

(4) An inspection certificate expires on the expiration of one year following the day upon which it came into effect. R.O. 1958, c. 102, s. 10.

"shop inspector"

11. (1) In this section, "shop inspector" means

- (a) in respect of a pressure vessel built in Canada, Europe or a country of the British Commonwealth, a person approved or appointed as such in accordance with the law of the place where the pressure vessel was built; and
- (b) in respect of a pressure vessel built in the United States of America, a person approved as such by the National Board of Boiler and Pressure Vessel Inspectors.

(2) A purchaser to whom a new pressure vessel is delivered shall forward to the Commissioner

Purchaser to send data to Commissioner

- (a) a manufacturer's data sheet showing all dimensions, material specifications and the design pressure of the pressure vessel; and
- (b) a shop inspector's report attached to the data sheet mentioned in paragraph (a) that includes a statement of the discharge capacity of the safety valves of the pressure vessel and the pressure at which the safety valves are set to relieve.

(3) Notwithstanding section 9, the Commissioner may grant to a person who has complied with subsection (2) permission in writing to operate a new pressure vessel for any period not exceeding one year. R.O. 1958, c. 102, s. 11.

Commissioner may grant permission to operate

12. (1) An inspector shall examine and inspect at any time specified by the Commissioner any pressure vessel and if the inspector finds it to be unsafe he shall so declare, and shall notify in writing the owner of such pressure vessel to make such repairs as the inspector deems necessary to render the pressure vessel safe for use.

Inspection of unsafe pressure vessels

(2) Where an inspector declares a pressure vessel to be unsafe, the inspection certificate issued or permission to operate given under section 11 in respect of that pressure vessel shall forthwith be suspended.

Certificate or permission suspended where vessel unsafe

(3) Where a pressure vessel declared to be unsafe has been repaired to the satisfaction of an inspector, the inspection certificate or permission to operate in respect of that pressure vessel may be reinstated in writing by the Territorial Secretary. R.O. 1958, c. 102, s. 12.

Reinstatement of certificate or permission

13. (1) Where the owner of a pressure vessel proves to the satisfaction of an inspector that it has not been operated since the date of the previous inspection and is in as good condition as when last inspected, the inspector may recommend the issue of an inspection certificate without inspection of the pressure vessel and the Territorial Secretary may issue

Where no inspection or fee required

an inspection certificate in respect of the pressure vessel without payment of the prescribed fee. R.O. 1958, c. 102, s. 13.

Owner to pay costs of certain inspections

14. (1) The Commissioner may determine the cost of any inspection or investigation, other than the inspection provided for in section 10, and may assess the owner of the pressure vessel inspected or investigated for all or any part of such cost, and where payment of the amount assessed is not made, the Commissioner may recover the same from the owner in the same manner as a judgment of the Court. R.O. 1958, c. 102, s. 14.

QUALIFICATION OF PRESSURE VESSEL OPERATORS

No person to operate steam plant without engineer's certificate

15. (1) Subject to this Ordinance, no person shall operate or take charge of a steam plant having a capacity exceeding five horsepower unless he holds an engineer's certificate entitling him to operate steam plants of the capacity of that steam plant.

When owner may operate steam plant without certificate

(2) Notwithstanding subsection (1), an owner who has attained the age of twenty-one years may operate his own steam plant where the pressure in any part thereof does not exceed fifteen pounds per square inch. R.O. 1958, c. 102, s. 15.

Issue of engineer's certificates

16. (1) The Territorial Secretary may issue

- (a) a first class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant;
- (b) a second class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant not exceeding seven hundred and fifty horsepower and to act as assistant engineer of any steam plant;
- (c) a third class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant not exceeding five hundred horsepower and to act as assistant engineer of any steam plant not exceeding seven hundred and fifty horsepower;
- (d) a fourth class engineer's certificate, entitling the holder thereof to operate or take charge of any steam plant not exceeding two hundred horsepower and to act as assistant engineer of any steam plant not exceeding five hundred horsepower; and
- (e) a fifth class engineer's certificate, entitling the holder thereof to operate under the supervision of any engineer, other than an engineer holding a fifth class engineer's certificate, any steam plant not exceeding two hundred horsepower;

to a person who

- (f) has attained
 - (i) in the case of an applicant for a fourth or fifth class engineer's certificate, the age of eighteen years, and
 - (ii) in the case of an applicant for any other class of engineer's certificate, the age of twenty-one years;
- (g) has passed the prescribed examination for the class of certificate; and
- (h) has paid the prescribed fee.

(2) Where an owner of a steam plant is unable to obtain the services of an engineer who holds an engineer's certificate entitling him to operate steam plants of that type, the Territorial Secretary may, upon receiving from the owner an application in the prescribed form and the prescribed fee, issue a provisional engineer's certificate for a period not exceeding one year to a person recommended by the owner.

Provisional
engineer's
certificate

(3) A provisional certificate issued pursuant to subsection (2) shall be subject to such terms and conditions as the Territorial Secretary shall, upon recommendation of an inspector, prescribe. R.O. 1958, c. 102, s. 16.

Issued subject to
conditions

17. (1) Upon receiving an application in prescribed form and the prescribed fee, the Territorial Secretary may issue to a person who is the holder of a valid and subsisting certificate of qualification for the operation of a pressure vessel issued by

Issue of certi-
ficates to certain
persons

- (a) an incorporated body authorized under the laws of Canada or a province thereof to issue such certificate;
- (b) an officer of the Government of Canada;
- (c) an officer of the government of any province of Canada; or
- (d) a competent authority in a country of the British Commonwealth;

an engineer's certificate under this Ordinance equivalent to the certificate of qualification held by him. R.O. 1958, c. 102, s. 17.

18. (1) Upon undertaking to operate or take charge of any steam plant or upon leaving such a position, an engineer shall notify the Territorial Secretary accordingly. R.O. 1958, c. 102, s. 18.

Engineer to
notify Territori-
al Secretary

19. (1) An engineer's certificate, other than a provisional engineer's certificate expires on the 31st day of March following the day upon which it came into effect but, subject to

Expiry date of
engineer's
certificate

subsection (2), may be renewed in any year thereafter on payment of the prescribed fee in respect of the certificate.

Commissioner
may require
examination

(2) The Commissioner may require a person who has not renewed his engineer's certificate to write a prescribed examination and if the person fails to pass the examination he is not entitled to a renewal. R.O. 1958, c. 102, s. 19.

Display of
certificates

20. (1) Every person who holds a certificate under this Ordinance shall display it at all times in a conspicuous place, protected by glass or other transparent covering,

(a) in the case of an inspection certificate, in the room or other place where the pressure vessel in respect of which the certificate was issued is operated; and

(b) in the case of an engineer's certificate, in the room or other place where the person is employed, or attached to the pressure vessel of which he has charge. R.O. 1958, c. 102, s. 20.

Penalty

21. (1) Any engineer who fails to display his engineer's certificate as required by section 20 commits an offence and is liable upon summary conviction to a fine not exceeding fifty dollars. R.O. 1958, C. 102, s. 21.

SECOND-HAND PRESSURE VESSELS

Sale of second-
hand pressure
vessels

22. (1) Subject to subsections (2) and (3), no person shall sell, exchange or otherwise dispose of any pressure vessel.

Permission to
sell

(2) The Commissioner may upon such terms and conditions as he sees fit grant permission to a person to dispose of a pressure vessel if that person has sent to the Commissioner by registered mail a notice setting forth

(a) the names and addresses of all parties to the intended transaction;

(b) a description of the pressure vessel; and

(c) the number assigned to the pressure vessel on its initial inspection.

Application

(3) This section does not apply to the sale of a new pressure vessel or to the transfer of a pressure vessel by an owner to a manufacturer or dealer. R.O. 1958, c. 102, s. 22.

No person to use
second-hand
vessel until
permission
granted

23. (1) No person shall use a second-hand pressure vessel acquired by him until he has ascertained that the permission required by section 22 has been granted. R.O. 1958, c. 102, s. 23.

24. (1) A person who brings into the Territory a pressure vessel that has been used previously outside the Territory shall, before installing it, notify the Commissioner in writing of the description, design, specifications and make of the pressure vessel and shall not install it until it has been approved by the Commissioner.

Importer of used vessels to notify Commissioner

(2) Notwithstanding section 9, the Commissioner may grant to a person who has complied with subsection (1) permission in writing to operate the pressure vessel for any period not exceeding one year. R.O. 1958, c. 102, s. 24.

Permission to operate

EXPLOSIONS

25. (1) Where an explosion occurs in connection with a pressure vessel, the owner shall

Owner to report on explosions

- (a) report the explosion to the Commissioner by the speediest practicable means; and
- (b) forward a full written report to the Commissioner forthwith, setting out
 - (i) a list of the persons injured or killed,
 - (ii) the exact place of the explosion, and
 - (iii) the probable cause and the particulars of the explosion.

(2) Except for the purpose of rescuing injured persons or of removing the bodies of the persons killed, where an explosion has occurred in connection with a pressure vessel, no person shall remove any part of the pressure vessel or the machinery connected therewith without the permission of an inspector until it has been examined by the inspector. R.O. 1958, c. 102, s. 25.

No person to move machinery without permission

GENERAL

26. (1) The owner of a pressure vessel shall at all times keep an adequately equipped first aid kit for the treatment of minor injuries in a place near the pressure vessel where it is easily visible and readily accessible. R.O. 1958, c. 102, s. 26.

First aid kit

27. (1) No person shall install or sell, exchange or otherwise dispose of a pressure vessel or an accessory thereto unless the pressure vessel or the accessory has been constructed in accordance with the regulations governing its design and mode of construction. R.O. 1958, c. 102, s. 27.

No person to install or sell vessels and accessories unless properly constructed

28. (1) The Commissioner may cancel or suspend any certificate issued under this Ordinance, and may direct that

Commissioner may cancel certificates, etc.

no certificate be issued under this Ordinance. R.O. 1958, c. 102, s. 28.

REGULATIONS

Regulations

29. (1) The Commissioner may make regulations for carrying out the provisions of this Ordinance, and without limiting the generality of the foregoing, may make regulations

- (a) respecting the construction, installation, inspection and operation of pressure vessels and accessories thereto, and the approval of their design and specifications;
- (b) respecting the examination of applicants for engineer's certificates or renewals thereof, including the nature of the examination and the standard of qualification for any certificate;
- (c) respecting the issue, renewal, suspension or cancellation of any certificate;
- (d) respecting the issue of and conditions attached to written permission to operate a new pressure vessel;
- (e) fixing the fees payable for any renewal, inspection or examination and for issuing any certificate or written permission;
- (f) respecting the records to be kept by inspectors;
- (g) respecting the classification of pressure vessels for the purpose of inspection or otherwise; and
- (h) prescribing the forms necessary for carrying out the purposes and provisions of this Ordinance.

Tabling of regulations

(2) The Territorial Secretary shall table all regulations before the Council when made or, if the Council is not then sitting, on the first day next thereafter that the Council is sitting. R.O. 1958, c. 102, s. 29.

PENALTIES

Obstruction of inspector

30. (1) No person shall interfere with or obstruct an inspector in the performance of his duties. R.O. 1958, c. 102, s. 30.

Penalty

31. (1) Every person who violates any provision of this Ordinance or the regulations for which no other penalty is provided in this Ordinance 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 six months, or to both fine and imprisonment. R.O. 1958, c. 102, s. 31.

32. (1) No prosecution for an offence under this Ordinance shall be commenced after one year from the day on which the offence is alleged to have been committed. R.O. 1958, c. 102, s. 32. Limitation

CHAPTER S-9

STUDENTS' GRANTS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Students' Grants Ordinance*. 1967 (1st) c. 5, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
 "institution" means "institution"
 (a) a university or college,
 (b) a school of nursing,
 (c) a teachers' training college, or
 (d) a technical, occupational, trades or vocational school or college that has been approved by the Commissioner; and

"student" means a person enrolled or registered at an institution. 1967 (1st) c. 5, s. 2. "student"

GRANTS

3. (1) Subject to this Ordinance, the Commissioner may, on application, make grants to any student who is Persons to whom grants made
 (a) a resident of the Territory; or
 (b) a dependent son or daughter of a resident of the Territory.

(2) When the Commissioner considers an application for a grant under subsection (1), he shall not take into account whether a student has received or is eligible to receive a scholarship. Scholarship not to be taken into account

(3) A grant made to a student pursuant to subsection (1) shall not exceed the aggregate of Amount of grant
 (a) the amount of the tuition or other fees set by the institution for the period of the course of studies being undertaken by that student;
 (b) the cost of necessary books, supplies and other equipment, and any special clothing required by that student, in the period of the course of studies being undertaken by him;

- (c) an amount for the living expenses of that student as they are determined by the Commissioner; and
- (d) the cost of transportation from such place as the Commissioner may decide to the institution and from the institution to such place as the Commissioner may decide. 1967 (1st) c. 5, s. 3.

Grants out of moneys appropriated

4. (1) All grants made by the Commissioner under this Ordinance shall be paid out of moneys appropriated by the Council for that purpose. 1967 (1st) c. 5, s. 4.

REGULATIONS

Regulations

5. (1) The Commissioner may make such regulations as he deems necessary to carry out the provisions of this Ordinance and, without restricting the generality of the foregoing, may make regulations

- (a) prescribing the period during which a student shall have been resident in the Territory before a grant may be made under this Ordinance;
- (b) prescribing the health standards of any student to whom or in respect of whom a grant may be made under this Ordinance;
- (c) prescribing the minimum scholastic standards that shall have been attained by any student to whom or in respect of whom a grant is made under this Ordinance; and
- (d) prescribing the manner and time of payment of grants made under this Ordinance. 1967 (1st) c. 5, s. 5.

ADVISORY BOARDS

Functions of advisory board

6. (1) The Commissioner may appoint one or more advisory boards, each consisting of at least three members, to assist him in evaluating the qualifications of students applying for grants under this Ordinance and to advise him on such matters respecting the administration of this Ordinance as he thinks fit.

Meetings of advisory board

(2) An advisory board shall meet at such times and places as the Commissioner may direct. 1967 (1st) c. 5, s. 6.

CHAPTER S-10

TERRITORIAL EMPLOYEES' SUPERANNUATION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the Territorial Employees' Superannuation Ordinance. 1963 (1st) c. 4, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance, Definitions

"Act" means the Public Service Superannuation Act of Canada; "Act"

"employee" means any person employed in the public service of the Territory other than "employee"

(a) an employee who is

(i) a part-time employee, or

(ii) engaged for a term of twelve months or less, unless he has been employed in the public service substantially without interruption for a period of more than twelve months;

(b) an employee who is in receipt of a salary computed at an annual rate of less than nine hundred dollars;

(c) an employee whose compensation for the performance of the regular duties of his position or office consists of fees of office; or

(d) a prevailing rate or seasonal employee, unless designated by the Commissioner individually or as a member of a class. 1963 (1st) c. 4, s. 2.

EMPLOYEES REQUIRED TO CONTRIBUTE

3. (1) Every employee is required to contribute, by reservation from his salary or otherwise, Employees required to contribute

(a) to the Superannuation Account in the Consolidated Revenue Fund of Canada, the amount required by Part I of the Act to be contributed by him as a contributor under that Part; and

(b) to the Public Service Death Benefit Account in the Consolidated Revenue Fund of Canada, the amount

required by Part II of the Act to be contributed by him as a participant under that Part. 1963 (1st) c. 4, s. 3.

Commissioner to pay contributions to Consolidated Revenue Fund

4. (1) The Commissioner shall reserve from the salary of every employee and pay to the Consolidated Revenue Fund of Canada the amounts required to be reserved from the salary of each employee by the Act. 1963 (1st) c. 4, s. 4.

TERRITORIAL CONTRIBUTION

Territorial contribution

5. (1) There shall be paid from the Yukon Consolidated Revenue Fund to the Consolidated Revenue Fund of Canada from time to time as required by the Minister of Finance of Canada the amount required to be paid under the Act by a Public Service corporation specified in Schedule C or D to the *Financial Administration Act of Canada* in respect of the contributions of employees to the Superannuation Account and the Public Service Death Benefit Account in that Fund. 1963 (1st) c. 4, s. 5.

REGULATIONS

Regulations

6. (1) The Commissioner may make regulations

- (a) specifying, for the purpose of this Ordinance, the circumstances under which an employee's service in the public service of the Territory shall be deemed to be substantially without interruption;
- (b) defining, for the purpose of this Ordinance, the expressions "part-time employee", "prevailing rate employee" and "seasonal employee", and
- (c) generally, for carrying out the provisions of this Ordinance. 1963 (1st) c. 4, s. 6.

CHAPTER S-11

SURVIVORSHIP ORDINANCE

1. This Ordinance may be cited as the *Survivorship Ordinance*. 1962 (5th) c. 4, s. 1. Short title

2. (1) Where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, the deaths are, subject to subsections (2) and (3), presumed to have occurred in the order of seniority, and accordingly the younger is deemed to have survived the older. General rule

(2) Where an Ordinance or an instrument contains a provision for the disposition of property operative if a person designated in the Ordinance or instrument Substitute gifts

(a) dies before another person,

(b) dies at the same time as another person, or

(c) dies in circumstances rendering it uncertain which of them survived the other,

and the designated person dies at the same time as the other person or in circumstances rendering it uncertain which of them survived the other, then, for the purpose of that disposition, the case for which the Ordinance or instrument provides is deemed to have occurred.

(3) Where a will contains a provision for a substitute personal representative operative if an executor designated in the will Substitute executors

(a) dies before the testator,

(b) dies at the same time as the testator, or

(c) dies in circumstances rendering it uncertain which of them survived the other,

and the designated executor dies at the same time as the testator or in circumstances rendering it uncertain which of them survived the other, then, for the purpose of probate, the case for which the will provides is deemed to have occurred. 1962 (5th) c. 4, s. 2.

3. (1) Nothing in this Ordinance shall be construed as affecting the operation of sections 108 and 158 of the *Insurance Ordinance*. 1962 (5th) c. 4, s. 3. Exception

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

CHAPTER T-1

TENANTS IN COMMON ORDINANCE

1. This Ordinance may be cited as the *Tenants in Common Ordinance*. R.O. 1958, c. 104, s. 1. Short title

2. (1) Where by letters patent, transfer, conveyance, assurance, will or other assignment, land or an interest in land is granted, transferred, conveyed, assigned or devised to two or more persons other than executors or trustees in fee simple or for any less estate, legal or equitable, such persons shall take as tenants in common and not as joint tenants unless an intention sufficiently appears on the face of such letters patent, transfer, conveyance, assurance, will or other assignment that they are to take such land or interest in land as joint tenants. R.O. 1958, c. 104, s. 2. Owners to hold
as tenants in
common unless
intention
otherwise

CHAPTER T-2

TERRITORIAL COURT ORDINANCE

1. This Ordinance may be cited as the *Territorial Court Ordinance*. 1971 (1st) c. 12, s. 1. Short title
2. (1) In this Ordinance Definitions
 "Court" means the Territorial Court of the Yukon Territory established by this Ordinance; "Court"
 "judge" means the judge of the Court appointed by the Governor-in-Council pursuant to the *Yukon Act* and includes a deputy judge of the Court and an *ex officio* judge of the Court. 1971 (1st) c. 12, s. 2. "judge"
3. (1) There shall be a superior court of record in and for the Territory called the "Territorial Court of the Yukon Territory". 1971 (1st) c. 12, s. 3. Territorial Court established
4. (1) The Court shall consist of a judge of the Court and such *ex officio* judges and deputy judges as may be appointed from time to time by the Governor-in-Council. 1971 (1st) c. 12, s. 4. Appointment of judges
5. (1) The Court is a superior court of record having full civil and criminal jurisdiction throughout the Territory. Jurisdiction
 (2) The Court shall, throughout the Territory, have and may exercise in all cases, all the powers, duties and functions that were vested in the Territorial Court of the Yukon Territory immediately prior to the commencement of this Ordinance.
 (3) A judge of the Court shall, throughout the Territory, have and may exercise all the powers, duties and functions that are vested in the Court. 1971 (1st) c. 12, s. 5.
6. (1) Sittings of the Court shall be held at such times and places as the judge of the Court deems necessary. Sittings
 (2) The Court may sit in the Northwest Territories for the purpose of hearing a civil case other than a civil case where the Court sits with a jury.

(3) When the Court sits in the Northwest Territories the Court has and may exercise all the powers, duties and functions in the Northwest Territories that it has and may exercise when sitting in the Yukon Territory. 1971 (1st) c. 12, s. 6.

Oaths of judges

7. (1) Every judge 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 Territorial Court of the Yukon. So help me God.” 1971 (1st) c. 12, s. 7.

Judgment after resignation

8. (1) Where a judge of the Court has resigned his office, and a case that has been fully heard by that judge stands for judgment, he may within two months after his resignation give judgment therein as if he were still a judge.

(2) Any judgment referred to in subsection (1) is of the same force and validity as if the former judge were still a judge. 1971 (1st) c. 12, s. 8.

Constitutional

9. (1) When in an action or other proceeding the constitutional validity of an enactment of Canada or of the Territory is brought in question, the enactment shall not be held to be invalid unless notice has been given to the Attorney General of Canada or the Commissioner as the case may require or the Court may direct.

(2) The notice referred to in subsection (1) shall specify the enactment alleged to be invalid and the grounds on which the enactment is alleged to be invalid and shall be served on the Attorney General of Canada or the Commissioner, as the case may require not less than ten days prior to the date fixed by the Court for the determination of the question, together with a copy of the pleadings if any in the case and of any other material which has been filed in the Court or submitted in evidence.

(3) The Attorney General of Canada and the Commissioner are entitled as of right to be heard, either in person or by counsel, notwithstanding that the Crown or the Commissioner is not a party to the action or proceeding.

(4) In this section “enactment” includes act, regulations, order, order-in-council, Ordinance and any other statutory instrument made by or under the authority of Her Majesty,

the Parliament of Canada, the Parliament of the United Kingdom, the Governor General, the Governor-in-Council, a Minister, the Commissioner-in-Council, or the Commissioner. 1971 (1st) c. 12, s. 9.

10. (1) The Commissioner may appoint the Clerk of the Court, the Sheriff and such other officers as he deems necessary for the due administration of justice and the dispatch of business of the Court. 1971 (1st) c. 12, s. 10. Appointment of officers

11. (1) Where proceedings were commenced in the Territorial Court as constituted immediately prior to the coming into force of this Ordinance, the proceedings shall be dealt with, continued or determined in the Court in accordance with this Ordinance. 1971 (1st) c. 12, s. 11. Transitory

12. (1) Where in any Statute or Ordinance, or in any order, rule or regulations made thereunder, reference is made to

- (a) the Territorial Court of the Yukon Territory ;
- (b) to a court constituted by Statute or Ordinance and exercising within the Territory the jurisdiction, powers and authority exercised within the Territory by the Territorial Court of the Yukon at the date of the passing of such statute or ordinance ; or
- (c) a judge thereof ;

the reference shall be taken to mean and to refer to the Court established by this Ordinance or to a judge of such Court as the case may be. 1971 (1st) c. 12, s. 12.

13. (1) Every person appointed under the *Yukon Act* who upon the coming into force of this Ordinance holds office as a clerk of the Court, deputy clerk of the Court, sheriff, deputy sheriff, bailiff or recorder shall continue to hold office as if appointed pursuant to this Ordinance. 1971 (1st) c. 12, s. 13.

CHAPTER T-3

TRADE SCHOOLS REGULATION ORDINANCE

- 1.** This Ordinance may be cited as the *Trade Schools Regulation Ordinance*. 1971 (3rd) c. 4, s. 1. Short title
- 2.** (1) In this Ordinance Definitions
- “Registrar” means the person appointed to be the Registrar pursuant to section 3; “Registrar”
- “trade” means the skill and knowledge requisite for or intended for use in any business, trade, occupation, calling or vocation designated as a trade by the regulations; “trade”
- “trade school” means any school or place wherein any trade is taught or purported to be taught, and any course of study organized, promoted or carried on, whereby a trade is taught or purported to be taught, but does not include a school, place, or course of study, whether by correspondence or otherwise, conducted or operated by a university approved by the Commissioner, by any department of the Government of Canada or the Territory, under the *School Ordinance*, or a school or course maintained under the provisions of any other Ordinance of the Territory, or a school, place or course exempted by the Commissioner. “trade school”
- (2) A person who keeps or is in charge or apparently in charge of a trade school shall be deemed to operate the trade school. 1971 (3rd) c. 4, s. 2.
- 3.** (1) The Commissioner may appoint a Registrar, Deputy Registrar and such officers as he may consider necessary for the purpose of carrying out the provisions of this Ordinance. 1971 (3rd) c. 4, s. 3. Appointments
- 4.** (1) No person shall operate any trade school in the Territory unless he is registered under this Ordinance. 1971 (3rd) c. 4, s. 4. Registration
- 5.** (1) After the coming into force of this Ordinance, every person desirous of commencing the operation of a trade school in the Territory shall make application for registration in writing to the Registrar in such form and with such particulars as may be prescribed. 1971 (3rd) c. 4, s. 5. Application

Expiration and renewal of registration

6. (1) Every registration under this Ordinance shall expire on the thirty-first day of August next following the date of registration, and every person who is registered may make application to the Registrar for the renewal of his registration in the manner provided in section 5. 1971 (3rd) c. 4, s. 6.

Register and issue of Certificate

7. (1) Upon the applicant for registration or for renewal of registration, as the case may be, complying with the requirements of the Registrar and satisfying him that the trade school is provided with competent instructors and sufficient equipment for the teaching of any specified trade or trades, and is furnished or is prepared to furnish proper instruction in such trade or trades, the Registrar may register the applicant as operator of a trade school for the teaching of the specified trade or trades, and may issue a Certificate of Registration accordingly. 1971 (3rd) c. 4, s. 7.

Inspection

8. (1) The Registrar, or any person authorized by him in writing, may inspect any trade school at any time, to observe the method of instruction given therein, and to inspect the business books and records, and all circulars, pamphlets, and other material used for advertising the trade school and the instruction afforded therein, and any person who obstructs the Registrar or the authorized person in making any inspection or observation, or who refuses or neglects to produce any business book or record upon demand, commits an offence. 1971 (3rd) c. 4, s. 8.

Cancellation and reinstatement of Certificate

9. (1) If, as the result of any inspection of any trade school, or upon being otherwise credibly informed, the Registrar is satisfied that a trade school in respect of which registration has been made under this Ordinance is insufficiently provided with the means of instruction, or that any regulation under the provisions of this Ordinance is not observed therein, he may cancel the registration and the Certificate thereof.

(2) Where the Registrar is satisfied that the insufficiency or breach has been rectified, he may in his absolute discretion reinstate the registration and the Certificate. 1971 (3rd) c. 4, s. 9.

Penalty

10. (1) Every person who

- (a) operates a trade school at a time when he is not registered under this Ordinance as the operator of that trade school,
- (b) operates a trade school for the purpose of giving instruction in a trade not specified in his Certificate of Registration,

- (c) enters into any contract for the furnishing of instruction in a trade other than the contract set out in the application for registration, or a contract which has been approved by the Registrar, or
- (d) fails to comply with any provision of this Ordinance or the regulations,

is, in addition to any other liability, liable, upon 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. 1971 (3rd) c. 4, s. 10.

11. (1) The Commissioner may from time to time make Regulation
regulations

- (a) prescribing the security to be provided by the operator of any trade school operated in the Territory for the due performance of his contracts with students or their parents or guardians;
- (b) prescribing the minimum number of hours of instruction in any trade which shall constitute a course of instruction in that trade;
- (c) prescribing the terms and conditions upon which enrolment and tuition fees may be collected and money paid for or on account of instruction in any trade school shall be either retained by the payee or be repayable to the payer;
- (d) prohibiting the use within the Territory of any advertising relating to any trade school which may tend to mislead, and requiring the discontinuance of any specified advertisement or means of advertisement by the operator of any trade school;
- (e) designating any calling or vocation as a trade within the meaning of this Ordinance;
- (f) fixing the fees that shall be payable on application for registration or renewal of registration under this Ordinance;
- (g) providing, in the case of any specified trade school, that no certificate or other document as to the competency of any person shall be issued by that trade school unless that person has submitted himself to such examination and by such persons as may be prescribed by the regulations, and prescribing fees for such examination and certificate;
- (h) generally, as to the conduct, operation, and management of trade schools or any of them, and the nature of any examinations for certificates of competency; the manner, times, and places of holding such examinations, and the persons who shall sit as examiners;

- (i) prescribing the accommodation, equipment, tools, implements, instruments, books and materials necessary for any trade school, and the means of instruction to be used and the number and qualification of teachers to be engaged ;
- (j) regulating the selling, advertising and offering for sale of any course of instruction offered by a trade school, and prohibiting any selling, advertising or offering for sale not in conformity with the regulations, prescribing the form of contract to be used and the terms, conditions and method upon which representatives, agents and salesmen may be employed ; and
- (k) generally, for the purpose of carrying out the provisions of this Ordinance. 1971 (3rd) c. 4, s. 11.

Application of
Ordinance and
regulations

12. (1) The provisions and requirements of this Ordinance and the regulations are in addition to all provisions and requirements made by or under any other Ordinance, and no examination held or certificate or other document granted by virtue of this Ordinance or the regulations shall in any way be deemed to be a compliance with the provisions or requirements made by or under any other Ordinance respecting examinations to be held or certificates or documents to be granted thereunder.

(2) Subject to subsection (1), in case of any conflict arising between the provisions of this Ordinance and the regulations and the provisions of any other Ordinance, the provisions of this Ordinance and the regulations shall prevail. 1971 (3rd) c. 4, s. 12.

CHAPTER T-4

TRANSPORT PUBLIC UTILITIES ORDINANCE

1. This Ordinance may be cited as the *Transport Public Utilities Ordinance*. 1971 (1st) c. 13, s. 1. Short title

2. (1) In this Ordinance Definitions

“Board” means the Transport Public Utilities Board constituted by this Ordinance; “Board”

“certificate” means a certificate of authority to operate public service vehicles; “certificate”

“member” means a member of the Board; “member”

“public service vehicle” means a motor vehicle operated on a highway by or on behalf of any person for gain or reward, whether such operation is regular, occasional or for a single trip, but does not include a motor vehicle owned by a municipality nor a motor vehicle used by its owner for the distribution or transportation of goods manufactured or sold by him or a single vehicle used by its owner to distribute commodities on his own behalf; “public service vehicle”

“transport public utility” means a person who operates a public service vehicle. “transport public utility”

(2) Any term used in this Ordinance which is defined in the *Motor Vehicles Ordinance* and not in this Ordinance shall have the meaning given to it in the *Motor Vehicles Ordinance*. 1971 (1st) c. 13, s. 2.

3. (1) No person shall operate, or cause or permit to be operated, a public service vehicle owned by him unless he has a certificate authorizing him to do so and a copy of the certificate is carried in the vehicle. Certificate required to operate public service vehicle

(2) Except where specially authorized by the Board, no holder of a certificate shall operate a public service vehicle in respect of which the certificate was issued except in accordance with

(a) the terms and conditions contained in the certificate, and

(b) the provisions of this Ordinance and the regulations made thereunder.

(3) Notwithstanding any other provisions of this Ordinance or the regulations, where a truck-tractor drawing a trailer is registered or licenced outside the Territory and is brought into the Territory for the purpose of transferring the trailer to a properly licenced truck-tractor, the first mentioned truck-tractor is exempt from the provisions of this section during the portion of the journey between

(a) the south border of the Territory and the Watson Lake Check Point and return to the border, and

(b) the west border of the Territory on the Alaska Highway and the settlement of Beaver Creek and return to the border. 1971 (1st) c. 13, s. 3.

Board constituted

4. (1) There shall be a Board, to be called the Transport Public Utilities Board, consisting of a chairman and three members to be appointed by the Commissioner. 1971 (1st) c. 13, s. 4.

Quorum

5. (1) Three members constitute a quorum of the Board. 1971 (1st) c. 13, s. 5.

Appointment of members

6. (1) Each of the members of the Board shall hold office during pleasure for a term of three years. 1971 (1st) c. 13, s. 6.

Remuneration

7. (1) The members of the Board shall be paid such remuneration as the Commissioner prescribes. 1971 (1st) c. 13, s. 7.

Vacancy

8. (1) A vacancy in the membership of the Board does not impair the right of the remainder to act. 1971 (1st) c. 13, s. 8.

Substitute member

9. (1) If any member of the Board by reason of absence or incapacity is unable at any time to perform the duties of his office, the Commissioner may appoint a person to act for the absent or incapacitated member. 1971 (1st) c. 13, s. 9.

Chairman and Vice-chairman

10. (1) The Chairman is the chief executive officer of the Board and has supervision over and direction of the work of the Board.

(2) The Commissioner shall designate one of the members to be Vice-chairman of the Board.

(3) If the Chairman is absent or is unable to act or if the office is vacant, the Vice-chairman has and may exercise all the powers and functions of the Chairman. 1971 (1st) c. 13, s. 10.

11. (1) The Board may be called together at any time by the Chairman or the Commissioner for the purpose of considering applications, objections, or complaints at the time and place fixed by the Chairman or the Commissioner. 1971 (1st) c. 13, s. 11. Meeting

12. (1) The Board may meet at any time on its own motion to perform any of its functions or duties under this Ordinance. 1971 (1st) c. 13, s. 12.

13. (1) Subject to the approval of the Commissioner, the Board may from time to time appoint one or more persons having special technical or other knowledge to enquire into and report on any matter before the Board or in respect of which the Board deems it necessary to have information. Experts

(2) A person appointed pursuant to subsection (1) shall be paid such remuneration as the Commissioner may prescribe. 1971 (1st) c. 13, s. 13. Remuneration

14. (1) The Board shall keep a record of all proceedings conducted before the Board and be responsible for the custody and care of all records and documents belonging to or pertaining to the Board. 1971 (1st) c. 13, s. 14. Records

15. (1) The Board may authorize a member or any other person to investigate and report on any question or matter arising in connection with the business of the Board. Powers

(2) A person authorized pursuant to this section has all the powers of the Board for the purpose of taking evidence or acquiring the necessary information for his report. 1971 (1st) c. 13, s. 15.

16. (1) The Board shall conduct such investigations, make such reports and perform such duties, in addition to the duties assigned to it by this Ordinance, as the Commissioner directs. 1971 (1st) c. 13, s. 16. Additional duties

17. (1) The members of the Board shall be paid such reasonable transportation, accommodation and living expenses incurred in connection with their duties while away from their ordinary place of residence as the Commissioner may prescribe. 1971 (1st) c. 13, s. 17. Expenses

18. (1) Where in the opinion of the Court it is not in the public interest no member of the Board or its staff shall be compelled to give testimony in a court of civil jurisdiction Evidence

with regard to information obtained in the discharge of his official duty or to produce any file, papers, information, reports, correspondence or other documents relating to the business of the Board.

(2) Every member and officer of the Board shall keep secret all information coming to his knowledge during the course of any inspection, examination, or investigation of any return, account, record, memorandum, book, or paper of any transport public utility, except insofar as his public duty requires him to report upon or take official action regarding the affairs of the transport public utility, or except insofar as he may be authorized by the Board to publish or to make known information. 1971 (1st) c. 13, s. 18.

Annual report

19. (1) The Board shall, not later than the thirty-first day of May in each year, transmit to the Commissioner a report for the year ending the preceding thirty-first day of March concerning the affairs of the Board and showing the activities of the Board for that year.

(2) The annual report of the Board shall be tabled at the next ensuing Session of the Council. 1971 (1st) c. 13, s. 19.

Appointment of inspectors

20. (1) The Commissioner may appoint inspectors to enforce the provisions of this Ordinance and the regulations under the direction of the Board. 1971 (1st.) c. 13, s. 20.

Reports

21. (1) The Board shall furnish to the Commissioner, at his request, a report respecting the granting of a certificate contemplated by the Board or a proposed increase in rates by the holder of a certificate. 1971 (1st) c. 13, s. 21.

Complaints

22. (1) Any person may file a complaint with the Board respecting

- (a) the manner in which the transport public utility provides service; or
- (b) the areas to which the transport public utility provides service.

Order by Board

(2) The Board shall, without undue delay, hear and adjudicate upon any complaint filed pursuant to subsection (1) and may make an order

- (a) determining the conditions and manner in which a transport public utility shall provide transport services; or

(b) requiring the transport public utility to establish, construct, maintain and operate any reasonable extension to its existing facilities.

(3) Notwithstanding subsection (2), where a complaint filed pursuant to subsection (1) is, in the opinion of the Board, frivolous, vexatious, calculated to delay, or without substance, the Board may, without a hearing, summarily dismiss the complaint. 1971 (1st) c. 13, s. 22.

23. (1) The Commissioner may, in respect of any transport public utility, file a complaint with the Board respecting any matter that can be the subject of a complaint pursuant to subsection 22(1) and the Board has the same powers to deal with such complaint as it has under section 22. 1971 (1st) c. 13, s. 23.

Complaint by Commissioner

24. (1)

(a) An owner wishing to operate a public service vehicle in the Territory shall apply to the Board for a certificate.

Application to Board for certificate

(b) The application shall be in the prescribed form and shall be accompanied by the prescribed fee and such additional information as the Board may require.

Form of application

(2) Upon receipt of the application referred to in subsection (1) and of the prescribed fees and the required information and after such public hearing or investigation or both as the Board deems proper, it may

Board may grant certificate or refuse application

(a) grant a certificate subject to such terms and conditions as it deems proper; or

(b) refuse the application.

(3) Where an application is made for a certificate or an alteration or a transfer or lease thereof, notice of the application shall be published on two occasions at least one week apart, the last of which shall be at least fourteen days before the hearing of the application, in a newspaper that circulates throughout the Territory.

Notice of application

(4) Upon any application for a certificate, the Board shall take into consideration amongst other matters,

Considerations

(a) any objection to the application made by any person already providing transport facilities of the type the applicant intends to provide on the ground that suitable facilities are or, if the certificate was issued, would be in excess of requirements or, on the ground that any

of the conditions or any other certificate or licence held by the applicant has not been complied with ;

- (b) the general effect on other transport services and any public interest that may be affected by the issue of such certificate ; and
- (c) the quality and permanence of the service to be offered by the applicant and the fitness, willingness and ability of the applicant to provide proper service. 1971 (1st) c. 13, s. 24.

Public hearing

25. (1) Except as provided by section 35, the Board shall hold a public hearing with respect to every application for approval of a certificate or the alteration thereof and may receive oral or written representation from any person with respect to any application before it. 1971 (1st) c. 13, s. 25.

Approval or refusal

26. (1) The Board shall approve or refuse to approve the issue of a certificate or the alteration thereof or may approve such certificate subject to such conditions or amendments as may be specified by the Board. 1971 (1st) c. 13, s. 26.

Notice to other parties

27. (1) In contentious matters, the Board may require notice of an application to or hearing by the Board to be given to such parties as it directs. 1971 (1st) c. 13, s. 27.

Through traffic

28. (1) This Ordinance shall not apply to an application for a licence for the purpose only of transporting goods or passengers through the Territory without loading or discharging passengers or goods within the Territory. 1971 (1st) c. 13, s. 28.

General jurisdiction

29. (1) The Board may order and require any person to do forthwith, or within, or at, any specified time and in any manner prescribed by the Board so far as it is not inconsistent with this Ordinance, any act, matter or thing that such person is or may be required to do under this Ordinance and may forbid the doing or continuing of any act, matter or thing that is contrary to this Ordinance. 1971 (1st) c. 13, s. 29.

Powers of Board

30. (1) The Board may

- (a) enter upon and inspect at any reasonable time any place, building, works, vehicle or other property of the holder of a certificate ;
- (b) require the attendance of such persons as it deems necessary to summon, and examine and take the testimony of such persons ;

- (c) require the production of such books, plans, specifications and other documents as it deems necessary ; and
- (d) administer oaths, affirmations or declarations.

(2) No action or proceeding shall lie against the Board or any member of the Board or any officer, agent, or staff of the Board for anything done or purporting to be done in pursuance of this Ordinance. No action against Board

(3) The Board may order to whom or by whom any costs incidental to any proceedings before the Board are to be paid and may fix the costs to be paid. Costs

- (4) Where a hearing is held by the Board, any person who
 - (a) fails, without valid excuse, to attend the hearing ;
 - (b) fails to produce any document, book or paper in his possession or under his control required pursuant to subsection (1); or
 - (c) refuses to be sworn or to answer any proper questions put to him by the Board ;

commits an offence punishable on summary conviction. 1971 (1st) c. 13, s. 30.

- 31. (1) The Board may make rules respecting Rules
 - (a) the sittings of the Board ;
 - (b) the procedures for making applications, representations and complaints to the Board, the conduct of hearings before the Board, and generally the manner of conducting any business before the Board ; and
 - (c) generally, for the carrying on of the work of the Board and the management of its internal affairs. 1971 (1st) c. 13, s. 31.

32. (1) The Board may on its own motion enquire into, hear and determine any matter or thing respecting the provision of transport services to the public in the Territory. 1971 (1st) c. 13, s. 32. Enquiry

33. (1) The Board may in any matter before it make an interim order and reserve further direction either for an adjourned hearing or for further application. 1971 (1st) c. 13, s. 33. Interim order

34. (1) The Board may review, rescind, change, alter or vary any decision or order made by it, and may rehear any application or complaint before deciding it. 1971 (1st) c. 13, s. 34.

Summary order **35.** (1) The Board may, on the ground of urgency and notwithstanding that it has not held a public hearing, make an interim order on any matter within its jurisdiction or issue or alter a certificate, but the order shall expire sixty days from the date on which it is made but may be renewed by the Board.

Application for decision (2) Any person affected by an order made or approval granted pursuant to subsection (1) may within fourteen days of the making of the order, or within such further time as the Board may allow, apply to the Board to alter or rescind the order or the approval thereof. 1971 (1st) c. 13, s. 35.

Extension of time **36.** (1) Where any work, act, matter or thing is by an order or decision of the Board required to be done, performed or completed within a specified time, and if the circumstances of the case so require, the Board may, upon giving such notice as it deems reasonable, or in its discretion without notice extend or abridge the time so specified.

(2) Where an application is made pursuant to this Ordinance, and the Board is satisfied that it is in the public interest to do so, it may

- (a) abridge or extend the time for the doing of any thing or the service of any notice required by this Ordinance, or
- (b) exempt the application from any of the provisions of this Ordinance,

subject to any condition which it may impose or subject to later compliance with the provisions of this Ordinance and for that purpose may grant an interim certificate or interim exemption. 1971 (1st) c. 13, s. 36.

Order final **37.** (1) Every order and decision of the Board shall be final and binding until changed or amended by the Board but no order of the Board shall be effective until a copy thereof is served on the person to whom it is directed. 1971 (1st) c. 13, s. 37.

Method of service **38.** (1) A copy of any complaint, order or notice shall be served by personally serving it,

- (a) in the case of a corporation, on some person in charge or apparently in charge of its undertaking, or at its registered office or chief place of business in the Territory;
- (b) in the case of a partnership, on any member thereof; or
- (c) in the case of an individual, on him.

(2) If in any case it is made to appear to the satisfaction of the Board that service of any complaint, order or notice cannot be made in the manner provided in subsection (1), the Board may allow service to be made by publication in a local newspaper or by prepaid registered mail. 1971 (1st) c. 13, s. 38.

39. (1) Except as provided in sections 33, 34, 35 and 36, every decision of the Board is final, and no order or decision of the Board may be questioned, reviewed, restrained, or removed by prohibition, injunction, certiorari or any process or proceeding in any court. 1971 (1st) c. 13, s. 39. No appeal

40. (1) An appeal lies from a decision or order of the Board to the Court upon a question of law if such appeal is taken within thirty days of the day the decision or order is made. Appeal of law

(2) On application being made the Court may extend the time allowed for appeal. 1971 (1st) c. 13, s. 40. Extension of time

41. (1) The Board is entitled to be heard by counsel or otherwise upon argument of an appeal. 1971 (1st) c. 13, s. 41. Appearance

42. (1) The operation of an order of the Board is not suspended by an appeal to the Court but the Court or the Board may suspend the operation of the order until the appeal has been determined. 1971 (1st) c. 13, s. 42. Order not suspended

43. (1) In any action or other proceeding, a copy of any order of the Board purporting to be certified by a member to be a true copy is *prima facie* evidence of the order without evidence of the signature of the member. 1971 (1st) c. 13, s. 43. Evidence of order

44. (1) Any decision or order made by the Board may, for the purposes of enforcement thereof, be made an order of the Court and when so made may be enforced in like manner as any order of the Court. Enforcement of order

(2) A decision or order of the Board becomes an order of the Court immediately upon the filing with the Clerk of the Court of a certified copy of the decision or order. 1971 (1st) c. 13, s. 44. Filing of order

45. (1) No certificate or right or privilege thereunder shall be capitalized, sold, assigned, leased or transferred except with the prior written approval of the Board. 1971 (1st) c. 13, s. 45. Approval of Board for transfer of certificate

Defacing or altering certificate or schedule

46. (1) No person shall deface or alter a certificate or a schedule of times, tolls or rates. 1971 (1st) c. 13, s. 46.

Abandon or discontinue a service

47. (1) No holder of a certificate shall, without the authority of the Board, abandon or discontinue, a service established under his certificate. 1971 (1st) c. 13, s. 47.

Offence and penalty

48. (1) A person who fails to comply with the requirements of this Ordinance commits an offence and is liable on summary conviction,

- (a) if an individual, to a fine not exceeding five hundred dollars, and in default of payment thereof, to imprisonment for a term not exceeding six months, or to both fine and imprisonment; and
- (b) if a corporation, to a fine not exceeding five thousand dollars.

Unlawful counselling

(2) Any person who advises, solicits or persuades or knowingly instructs, directs or orders any officer, agent or employee of a transport public utility to perform, commit or do any act that is contrary to an order of the Board or to the requirements of this Ordinance, commits an offence and is liable on summary conviction to a fine not exceeding five hundred dollars and in default of payment thereof, to imprisonment for a term not exceeding six months.

(3) The Board may amend, suspend or cancel any certificate on conviction of the holder of the certificate in any court for any offence against this Ordinance.

(4) Where an offence under this Ordinance committed by a corporation is committed with the consent or connivance of any director, manager, secretary or of any official of the corporation in charge or apparently in charge of a project he, as well as the corporation, commits an offence and is liable on summary conviction to a sentence not exceeding six months or a fine not exceeding five hundred dollars or to both fine and imprisonment.

(5) Where a complaint is laid against a person who is a corporation, a summons may be issued requiring an officer, director, secretary or partner named therein to appear in court to answer the charge on behalf of the corporation and to attend in court from day to day until the trial or hearing has been completed.

(6) Any person who fails to obey a summons issued pursuant to subsection (5) commits an offence and is liable on summary conviction to a sentence not exceeding six months

or a fine not exceeding five hundred dollars or to both fine and imprisonment.

- (7) Every person commits an offence who
 - (a) makes any return or furnishes any information to the Board which is false in any particular;
 - (b) fails or refuses to prepare and furnish to the Board, within the time and in the manner and form required by the Board, any information in his possession or under his control required under this Ordinance or the regulations;
 - (c) upon demand, fails or refuses to exhibit to the Board or any person authorized to examine the same, any book, paper, account, record, or memorandum in his possession or under his control;
 - (d) wilfully obstructs or interferes with any member, officer, or employee of the Board or any other person in the exercise of the rights conferred or duties imposed by or under this Ordinance or the regulations or orders of the Board;
 - (e) knowingly solicits, accepts, or receives, directly or indirectly, any rebate, concession, or discrimination in respect of any service whereby that service is furnished or received in violation of any provision of this Ordinance or the regulations or orders of the Board;
 - (f) being an officer of the Board, or a person having access to or knowledge of any return made to the Board, or of any information procured or evidence taken pursuant to this Ordinance other than at a public inquiry or hearing, and who, without the authority of the Board first obtained, publishes or makes known any information, having obtained the information or knowing it to have been derived from that return, information, or evidence; or
 - (g) being the holder of a certificate in respect of a public service vehicle, operates the public service vehicle in contravention of the certificate or any of the conditions attached thereto.

(8) In any prosecution under this Ordinance in respect of the operation of a public service vehicle in the transportation of any passenger or freight, proof of the fact that any passenger or freight was being transported by the public service vehicle on a highway is *prima facie* evidence that the passenger or freight was being so transported for compensation; and the burden is on the accused in all cases of proving that the public service so operated in a manner different from that alleged in the prosecution. 1971 (1st) c. 13, s. 48.

Seizure and
impoundment of
public service
vehicle

49. (1) An inspector or a member of the Royal Canadian Mounted Police may

- (a) without warrant, seize a vehicle that, in his opinion, is being operated in contravention of this Ordinance or the regulations; and
- (b) retain such vehicle in his custody
 - (i) until the proper fees and charges are paid, or
 - (ii) if an information is laid within seven days of the date of the seizure, until the case is judicially disposed of.

(2) A vehicle which has been seized pursuant to subsection (1) may be released if security by deposit of cash or a bond equivalent to a maximum of one thousand dollars is deposited with the Board.

(3) Where an inspector or a member of the Royal Canadian Mounted Police takes a vehicle into custody, he may direct that it be taken to a weigh scale or a place of storage and all costs and charges for the removal, care and storage of the same and the cargo thereon, if any, are a lien upon the vehicle, and may be recovered in the manner provided for as if it were a lien under the *Garage Keepers Lien Ordinance*. 1971 (1st) c. 13, s. 49.

Powers of
inspectors

50. (1) An inspector appointed pursuant to section 20 has all the powers of an officer appointed under the *Motor Vehicles Ordinance*. 1971 (1st) c. 13, s. 50.

Certificate
deemed can-
celled

51. (1) Where a certificate has been granted by the Board, the certificate shall be deemed to have been cancelled if the applicant

- (a) fails within such time as the Board may decide is reasonable, to exercise the rights and privileges granted in the certificate or to provide adequate and efficient service; or
- (b) has not renewed the licences specified in the certificate for a period of three months after the end of the fiscal year.

(2) If the applicant fails within a period of three months from the granting of a certificate, to procure the requisite number of licences specified in the certificate, the certificate shall be endorsed with the number of licences procured by the applicant and the applicant shall not without the approval of the Board be granted any further licences.

(3) The Board shall have the power, on application, to extend the time specified in subsections (1) and (2). 1971 (1st) c. 13, s. 51.

52. (1) The Commissioner may make such regulations as he deems necessary for carrying out the provisions of this Ordinance and, without restricting the generality of the foregoing, may make regulations concerning Regulations

- (a) the amount of deposit, insurance policy or bond required in respect of a transport public utility;
- (b) the terms and conditions of cancellation respecting such insurance or bond;
- (c) the filing of bonds and certificates of insurance;
- (d) the nature of freight that may be carried by a transport public utility;
- (e) the terms and conditions under which freight may be carried by a transport public utility and the liability of the transport public utility who carries freight;
- (f) routes and areas over which transport public utilities may travel;
- (g) the weight that may be carried on the top of a passenger-carrying public service vehicle;
- (h) the maximum weight and size of packages, freight and baggage that may be carried on public service vehicles;
- (i) the commission chargeable for collection "cash on delivery" shipments;
- (j) the maintenance of depots and the location thereof;
- (k) the time schedules of public service vehicles operated over a specified route;
- (l) the classification of vehicles and the respective purposes for which vehicles so classified may be operated and authorizing the operation for gain or reward of any designated class or classes of vehicles;
- (m) the form of application and certificates;
- (n) the issue, renewal and transfer, suspension and cancellation of certificates;
- (o) the classification of certificates;
- (p) the conditions under which certificates may be cancelled or suspended by the Board;
- (q) the fees that may be charged for certificates and other services provided under the Ordinance;
- (r) terms and conditions to which certificates shall be subject;

- (s) the examination of public service vehicles, their contents and equipment by inspectors and members of the Royal Canadian Mounted Police;
- (t) equipment to be carried by public service vehicles and the condition and location in which the equipment shall be kept;
- (u) the returns or statements to be filed, and providing for the examination by inspectors of all books, records and documents of an owner;
- (v) the method of handling cash on delivery shipments and the collection and remittance of "cash on delivery" funds;
- (w) the form or conditions in the bill of lading to be used;
- (x) the delegation to the Board of such of the powers and duties of the Commissioner as may be deemed necessary;
- (y) exemptions from any of the provisions of this Ordinance or the regulations upon such terms, limitations and conditions as may be prescribed; and
- (z) the information and manner of display of information on vehicles operated pursuant to this Ordinance. 1971 (1st) c. 13, s. 52.

Authority for
public service
vehicle licence

53. (1) A certificate issued pursuant to this Ordinance shall be authority for the issue of such number and categories of public service vehicle licences under the *Motor Vehicles Ordinance* as may be endorsed from time to time upon the certificate by the authority of the Board. 1971 (1st) c. 13, s. 54.

CHAPTER T-5

TRUSTEE ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Trustee Ordinance*. Short title
R.O. 1958, c. 105, s. 1.

INTERPRETATION

2. (1) In this Ordinance, "trustee" includes an executor or administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee, and includes several joint trustees. R.O. 1958, c. 105, s. 2. Definition "trustee"

INVESTMENTS

3. (1) Trustees having in their hands trust money that it is in their discretion to invest at interest may, subject to the terms of the trust, invest trust money in Investments by trustees

- (a) securities that are a first charge upon land in the Territory or any province of Canada; and
- (b) the debentures or securities of the Government of Canada, of the Territory or of any of the provinces of Canada or any debentures or securities the payment of which is guaranteed by the Government of Canada, by the Territory or by any province of Canada, if such investments are in other respects reasonable and proper.

(2) Trustees may at their discretion call in any trust funds invested in securities other than those mentioned in subsection (1) and invest the trust funds in any stock, debentures, or securities of a nature authorized by this Ordinance, and vary any such investments for others of the same nature.

(3) Money already invested in the manner authorized by subsection (1) shall be held and taken to have been lawfully and properly invested. R.O. 1958, c. 105, s. 3.

4. (1) A trustee may, unless expressly forbidden by the instrument, if any, creating the trust, deposit trust funds in his hands with or invest such funds in terminable debentures or debenture stock of a society or company mentioned in subsection (2), if such deposit or investment is in other Trustees may invest or deposit trust funds in certain debentures or debenture stock

respects reasonable and proper, the debentures are registered and are transferable only on the books of the society or company in his name as trustee for the particular trust estate for which they are held and the deposit account in the ledger of the company or society is in the name of the trustee for the particular trust estate for which it is held and the deposit, receipt or pass book is not transferable by indorsement or otherwise.

(2) An incorporated society or company authorized to lend money upon mortgages on real estate and having a capitalized, fixed paid up and permanent stock not liable to be withdrawn amounting to at least four hundred thousand dollars and a reserve fund of not less than twenty-five per cent of its paid up capital, and the stock of which has a market value of not less than seven per cent premium, is a society or company for the purposes of subsection (1).

(3) The trustees may from time to time vary any investments authorized by this section.

(4) No deposits or investments shall be made under the authority of this section with or in the debentures or debenture stock of any society or company that has not obtained an order of the Commissioner approving of the deposits or investments, and such approval shall not be granted to any society or company that does not appear to have kept strictly within its legal powers in relation to borrowing and investment.

(5) The Commissioner may at any time revoke an order approving of deposits with or investments in the debentures or debenture stock of any society or company, and such revocation does not affect the propriety of deposits or investments made before revocation. R.O. 1958, c. 105, s. 4.

Additional
powers given

5. (1) The powers conferred by sections 3 and 4 are in addition to the powers conferred by the instrument, if any, creating the trust; but nothing in this Ordinance authorizes a trustee to do anything that he is in express terms forbidden to do or to omit anything that he is in express terms directed to do by the instrument creating the trust. R.O. 1958, c. 105, s. 5.

When trustee not
chargeable on
insufficient
security

6. (1) No trustee lending money upon the security of property is chargeable with breach of trust, by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made where it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by

a person whom the trustee reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property whether such surveyor or valuer carried on business in the locality where the property is situated or elsewhere and that the amount of the loan does not exceed two-thirds of the value of the property as stated in the report and that the loan was made under the advice of the surveyor or valuer expressed in the report.

(2) This section applies to a loan upon property upon the security of which the trustee can lawfully lend and to transfers of existing securities as well as to new securities and to investments made as well before as after the commencement of this Ordinance. R.O. 1958, c. 105, s. 6.

7. (1) Where a trustee has improperly advanced trust money on mortgage security that would at the time of the investment have been a proper investment in all respects for a less sum than was actually advanced thereon the security shall be deemed an authorized investment for such less sum and the trustee is only liable to make good the sum advanced in excess thereof with interest. R.O. 1958, c. 105, s. 7.

Trustees lending more than authorized amount

8. (1) No trustee is liable for breach of trust by reason only of his continuing to hold an investment that has ceased to be an investment authorized by the instrument of trust or by the general law. R.O. 1958, c. 105, s. 8.

Liability in case of change of character of investment

RIGHTS AND LIABILITIES OF TRUSTEES

9. (1) Every deed, will or other document creating a trust either expressly or by implication shall without prejudice to the clauses actually contained therein be deemed to contain a clause in the words or to the effect following, that is to say :

Every trust instrument to be deemed to contain clause for the indemnity and reimbursement of the trustees

“That the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive notwithstanding their respectively signing any receipt for the sake of conformity and shall be answerable and accountable only for their own acts, receipts, neglects or defaults and not for those of each other nor for any banker, broker or other person with whom any trust moneys or securities may be deposited ; nor for the insufficiency or deficiency of any stocks, funds or securities nor for any other loss unless the same shall happen through their own wilful neglect or default respectively ;

and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument to reimburse themselves or himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument." R.O. 1958, c. 105, s. 9.

Appointment of
new trustees by
judge

10. (1) Whenever it is expedient to appoint one or more trustees, and it is inexpedient, difficult or impracticable so to do without the assistance of the court, a judge may make an order for the appointment of a new trustee or new trustees, either in substitution for or in addition to any existing trustee or trustees, or although there is no existing trustee; and in particular, and without limiting the generality of the foregoing provision, the judge may make an order for the appointment of a new trustee in substitution for a trustee who is convicted of an indictable offence, or is insolvent.

(2) No order under subsection (1) or a consequential vesting order or conveyance shall operate further or otherwise as a discharge to any former or continuing trustee than an appointment of new trustees under a power for that purpose contained in an instrument would have operated.

(3) Nothing in this section gives power to appoint a personal representative. R.O. 1958, c. 105, s. 10.

Appointment of
new trustees by
surviving or
continuing
trustees

11. (1) Where a trustee dies or desires to be discharged from the trust or refuses or becomes unfit to act or incapable of acting therein, the person nominated for that purpose by the deed, will or other instrument creating the trust, if any, or if there be no such person, or no such person able and willing to act, then the surviving or continuing trustees or the personal representative of the last surviving and continuing trustee, may appoint any other person or persons to be a trustee or trustees in place of the trustee or trustees dying, or desiring to be discharged, or refusing, or becoming unfit, or incapable of acting.

(2) So often as any new trustee or trustees is or are appointed under subsection (1) all the trust property that for the time being is vested in the surviving or continuing trustees or trustee or in the heirs, executors or administrators of any trustee or trustees shall with all convenient speed be assigned and transferred so that the same may be legally and effectually vested in such new trustee or trustees either solely or jointly with the surviving or continuing trustees or a surviving or continuing trustee as the case may require.

(3) Every new trustee, as well before as after a conveyance, assignment or transfer pursuant to subsection (2), and every trustee appointed by the judge, shall have the same powers, authorities and discretions, and shall in all respects act as if he had originally been nominated a trustee by the deed, will or other instrument creating the trust. R.O. 1958, c. 105, s. 11.

12. (1) On the appointment of a new trustee for the whole or any part of trust property

(a) the number of trustees may be increased ;

Increase in number of trustees

(b) a separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part of the trust property notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property and any existing trustee may be appointed or remain one of such separate set of trustees; or, if only one trustee was originally appointed, then one separate trustee may be so appointed for any such part of the trust property ;

Separate trustees for part of trust property

(c) it is not obligatory to appoint more than one new trustee where only one trustee was originally appointed, or to fill up the original number of trustees where more than two trustees were originally appointed ; but, except where only one trustee was originally appointed, a trustee is not discharged under section 11 from his trust unless there remain at least two trustees to perform the trust ; and

Minimum number of trustees

(d) any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are the trustees shall be executed or done. R.O. 1958, c. 105, s. 12.

Vesting trust property

13. (1) Every new trustee appointed has, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him, the same powers, authorities and discretions and may in all respects act as if he had been originally appointed a trustee by the instrument, if any, creating the trust. R.O. 1958, c. 105, s. 13.

Powers of new trustee

14. (1) The provisions of this Ordinance relative to a trustee who has died include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the provisions of section 11. R.O. 1958, c. 105, s. 14.

Interpretation of certain provisions

Application of sections 11 to 14

15. (1) Sections 11 to 14 apply only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument. R.O. 1958, c. 105, s. 15.

Discharge of retiring trustee

16. (1) Where there are more than two trustees, if one of them by deed declares that he is desirous of being discharged from the trust, and if his co-trustees and such other person, if any, as is empowered to appoint trustees, consent by deed to the discharge and to the vesting of the trust property in the co-trustees alone, then the trustee desirous of being discharged shall be deemed to have retired from the trust and shall, by the deed, be discharged therefrom without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument. R.O. 1958, s. 105, c. 16.

Vesting of trust property in new or continuing trustees without conveyance

17. (1) Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subjected shall vest in the persons who by virtue of such instrument become and are the trustees for performing the trust, that declaration shall, without any conveyance or assignment but subject to the provisions of the *Land Titles Act*, operate to vest in these persons as joint tenants and for the purposes of the trust, that estate, interest or right.

(2) Where an instrument by which a retiring trustee is discharged under this Ordinance contains a declaration made under this section by the retiring and continuing trustees and by the other person, if any, empowered to appoint trustees, such declaration shall, without any conveyance or assignment but subject to the conditions in subsection (1), operate to vest in the continuing trustees alone as joint tenants and for the purposes of the trust, the estate, interest or right to which the declaration relates.

(3) This section does not extend to any share, stock, annuity or property transferable only in books kept by a company or other body, or in manner prescribed by or under any Ordinance.

(4) For the purposes of registration of an instrument the person or persons making the declaration shall be deemed the conveying party or parties and the conveyance shall be deemed to be made by him or them under a power conferred by this Ordinance. R.O. 1958, c. 105, s. 17.

18. (1) Where an estate or interest of inheritance in real property is vested on an express trust in any person solely, the estate or interest shall on his death, notwithstanding any testamentary disposition, devolve to and become vested in his executor or administrator in like manner as if the same were personal estate vesting in him and, accordingly, all the like powers for one only of several joint executors or administrators as well as for a single executor or administrator and for all the executors and administrators together to dispose of and otherwise deal with the same shall belong to the deceased's executor or administrator with all obligations as if the same were personal estate vesting in him, and for the purposes of this section the executor or administrator of the deceased shall be deemed in law his heirs and assigns within the meaning of all trusts and powers. R.O. 1958, c. 105, s. 18.

Trustee's death

PURCHASE AND SALE

19. (1) Where a trust for sale or a power of sale of property is vested in a trustee he may sell or concur with any other person in selling all or any part of the property either subject to prior charges or not, and either together or in lots by public auction or by private contract subject to any such conditions respecting title or evidence of title or any other matter as the trustee thinks fit with power to vary any contract for sale and to buy in at any auction or to rescind any contract for sale and to resell without being answerable for any loss.

Power of trustee for sale to sell by auction, etc.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power and shall have effect subject to the terms of that instrument and to the provisions therein contained. R.O. 1958, c. 105, s. 19.

20. (1) No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it also appears that the consideration for the sale was thereby rendered inadequate.

Power to sell subject to depreciatory conditions

(2) No sale made by a trustee shall after the execution of the conveyance be impeached as against the purchaser upon

the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3) No purchaser upon any sale made by a trustee shall be at liberty to make any objection against the title upon the grounds in this section mentioned. R.O. 1958, c. 105, s. 20.

Fee simple estates of bare trustee to vest in their personal representatives

21. (1) Upon the death of a bare trustee of any corporeal or incorporeal hereditaments of which such trustee was seized in fee simple the hereditaments shall vest in the legal personal representative, from time to time, of such trustee. R.O. 1958, c. 105, c. 21.

Conveyances by married woman as bare trustee

22. (1) Where a freehold hereditament is vested in a married woman as bare trustee she may convey or surrender the same as if she were a *feme sole* and without her husband joining in the conveyance. R.O. 1958, c. 105, s. 22.

Power of judge to make order

23. (1) Where in the management or administration of property vested in trustees, a sale, lease, mortgage, surrender, release or other disposition, or a purchase, investment, acquisition, expenditure or other transaction, is in the opinion of a judge expedient, but the same cannot be effected by reason of the absence of any power for that purpose vested in the trustees by the trust instrument, if any, or by law, the judge may by order confer upon the trustees, either generally or in any particular instance, the necessary power for the purpose, on such terms, and subject to such provisions and conditions, if any, as the judge may think fit and may direct in what manner any money authorized to be expended, and the costs of any transaction, are to be paid or borne as between capital and income.

(2) A judge may, from time to time, rescind or vary any order made under this section, or may make any new further order.

(3) An application to a judge under this section may be made by the trustees, or by any of them, or by any person beneficially interested under the trust. R.O. 1958, c. 105, s. 23.

Receipts of trustees effectual discharges

24. (1) The bona fide payment of any money to and the receipt thereof by any person to whom it is payable upon any express or implied trust, or for any limited purpose, and the payment to and receipt by the survivors or survivor of two or more mortgagees or holders or the executors or administrators

of such survivors or survivor or their or his assigns, effectually discharges the person paying the same from seeing to the application of being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security. R.O. 1958, c. 105, s. 24.

VARIOUS POWERS AND LIABILITIES

25. (1) A trustee may appoint a solicitor to be his agent to receive and give a discharge for any money or any valuable consideration or property receivable by such trustee under the trust; and no trustee shall be chargeable with breach of trust by reason only of his having made or concurred in making the appointment; but nothing in this section exempts a trustee from any liability that he would have incurred but for this section for permitting the money, valuable consideration or property to remain in the hands or under the control of the solicitor for a period longer than is reasonably necessary to enable the solicitor to pay or transfer the same to the trustee.

Appointment of agents by trustees for certain purposes

(2) A trustee may appoint a chartered bank or solicitor to be his agent to receive and give a discharge for any money payable to such trustee under or by virtue of a policy of assurance or otherwise; and no trustee shall be chargeable with a breach of trust by reason only of his having made or concurred in making the appointment; but nothing in this section exempts a trustee from any liability that he would have incurred but for this section for permitting the money to remain in the hands or under the control of the bank or solicitor for a period longer than is reasonably necessary to enable him to pay the same to the trustee. R.O. 1958, c. 105, s. 25.

26. (1) A trustee may insure against loss or damage by fire any building or other insurable property to any amount, including the amount of any insurance then in effect, not exceeding three-fourth parts of the full value of the building or property and to pay the premiums for the insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person entitled wholly or partly to the income.

Powers of trustees to insure property

(2) This section does not apply to any building or property that a trustee is bound forthwith to convey absolutely to any *cestui que trust* upon being requested to do so. R.O. 1958, c. 105, s. 26.

Trustee committing breach of trust at instigation of beneficiary

27. (1) Where a trustee has committed a breach of trust at the instigation or request or with the consent in writing of a beneficiary, a judge may, if he thinks fit, and notwithstanding that the beneficiary is a married woman entitled for her separate use, whether with or without a restraint upon anticipation, make any order as to the judge seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him. R.O. 1958, c. 105, s. 27.

Powers of trustee to give receipts

28. (1) The receipt in writing of any trustee for any money, securities or other personal property or effects payable, transferable or deliverable to him under any trust or power is a sufficient discharge for it and effectually exonerates the person paying, transferring or delivering it from seeing to the application or being answerable for any loss or misapplication of it. R.O. 1958, c. 105, s. 28.

Power for executors, administrators, trustees to compound, etc.

29. (1) An executor or administrator or two or more trustees, acting together, or a sole acting trustee where by the instrument, if any, creating the trust a sole trustee is authorized to execute the trusts and powers thereof may, where he or they may think fit, accept any composition or any security real or personal for any debt or for any property real or personal claimed and may allow any time for payment for any debt and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's intestate's or estate or to the trust, and for any of these purposes may enter into, give and execute such agreements, instruments of composition or arrangement and releases and do any other things which seem expedient to him or them without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument. R.O. 1958, c. 105, s. 29.

Powers of surviving trustees

30. (1) Where a power or trust is given to or vested in two or more trustees jointly then unless the contrary is expressed in the instrument, if any, creating the power or trust the same may be exercised or performed by the survivor or survivors of them for the time being. R.O. 1958, c. 105, s. 30.

Exoneration of trustee in respect of certain powers of attorney

31. (1) A trustee acting or paying money in good faith under or in pursuance of any power of attorney is not liable

for the act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power if this fact was not known to the trustee at the time of his so acting or paying.

(2) Nothing in this section affects the right of any person entitled to the money against the person to whom the payment is made and the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee. R.O. 1958, c. 105, s. 31.

MAINTENANCE OF INFANTS

32. (1) Where any property is held by trustees in trust for an infant, either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event previously to his attaining that age, the trustees may at their sole discretion pay to the guardians, if any, of such infant, or otherwise apply for or towards the maintenance or education of such infant, the whole or any part of the income to which such infant may be entitled in respect of such property whether there be any fund applicable to the same purpose or any other person bound by law to provide for such maintenance or education or not, and such trustees shall accumulate all the residue of such income by way of compound interest by investing the same and the resulting income thereof from time to time in proper securities for the benefit of the person who ultimately becomes entitled to the property from which such accumulation arose; but the trustees at any time if it appears to them expedient may apply the whole or any part of such accumulations as if it were part of the income arising in the then current year. R.O. 1958, c. 105, s. 32.

In case property held in trust for infant, trustees may apply income for maintenance of infant

33. (1) Where any property either real or personal is held by trustees in trust for an infant either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event previously to his attaining that age and where the income arising from such property is insufficient for the maintenance and education of such infant the trustee by leave of a judge to be obtained in a summary manner, may sell and dispose of any portion of such real or personal property and pay the whole or any part of the money arising from the sale to the guardians, if any, of the infant or otherwise to be applied for or towards the maintenance or education of such infant; and in the event of the whole of the money arising from any sale of the real or personal property not being immediately required for the maintenance and education of the infant then the trustees

Property held in trust for infants may be sold by leave of judge

shall invest the surplus moneys and the resulting income therefrom from time to time in proper securities and shall apply the moneys and the proceeds thereof from time to time for the education or maintenance of such infant and shall hold all the residue of the moneys and interest thereon not required for the education or maintenance of such infant for the benefit of the person who ultimately becomes entitled to the property from which such moneys and interest have arisen. R.O. 1958, c. 105, s. 33.

PAYMENT INTO COURT—RELIEF

Trustees may pay trust moneys or securities into Court

34. (1) Trustees, or the majority of trustees, having in their hands or under their control money or securities belonging to a trust, or to the estate of a deceased person, may as provided in the *Judicature Ordinance* pay the same into Court; and they shall subject to the Rules of Court be dealt with according to the order of a judge.

(2) The receipt or certificate of the Clerk of the Court shall be a sufficient discharge to trustees for the money or securities so paid into Court.

(3) Where any moneys or securities are vested in any persons as trustees and the majority are desirous of paying them into Court but the concurrence of the other or others cannot be obtained a judge may order the payment into Court to be made by the majority without the concurrence of the other or others, and where any moneys or securities are deposited with any banker, broker or other depositary, a judge may order payment or delivery of the moneys or securities to the majority of the trustees for the purpose of payment into Court and every transfer, payment and delivery made in pursuance of an order is valid and takes effect as if it had been made on the authority or by the act of all the persons entitled to the moneys and securities so transferred, paid or delivered. R.O. 1958, c. 105, s. 34.

Relief of trustees committing technical breach of trust

35. (1) Whenever in any proceeding affecting trustees or trust property it appears to the Court that a trustee whether appointed by the Court or by an instrument in writing or otherwise, or that any person who in law may be held to be fiduciarily responsible as a trustee, is or may be personally liable for any breach whether the transaction alleged or found to be a breach of trust occurred before or after the passing of this Ordinance but has acted honestly and reasonably and ought fairly to be excused for the breach of trust and for omitting to obtain the directions of the Court in the matter in which he committed such breach then the Court

may relieve the trustee either wholly or partly from personal liability for the same. R.O. 1958, c. 105, s. 35.

RIGHTS AND LIABILITIES OF EXECUTORS AND ADMINISTRATORS

36. (1) The executors or administrators of a deceased person may maintain an action for all torts or injuries to the person or to the real or personal estate of the deceased except in cases of libel and slander, in the same manner and with the same rights and remedies as the deceased would, if living, have been entitled to do; and the damages when recovered shall form part of the personal estate of the deceased; but such action shall be brought within one year after his decease. R.O. 1958, c. 105, s. 36.

Action by
executors and
administrators
for torts

37. (1) Where any deceased person committed a wrong to another in respect of his person or of his real or personal property, except in cases of libel and slander, the person so wronged may maintain an action against the executors or administrators of the person who committed the wrong; but such action shall be brought within one year after the decease. R.O. 1958, c. 105, s. 37.

Actions against
executors and
administrators
for torts

38. (1) In estimating the damages in any action under section 36 or 37 the benefit, gain, profit or advantage that in consequence of or resulting from the wrong committed may have accrued to the estate of the person who committed the wrong shall be taken into consideration and shall form part or may constitute the whole of the damages to be recovered, whether or not any property or the proceeds of value of property belonging to the person bringing the action or to his estate has or have been appropriated by or added to the estate or moneys of the person who committed the wrong. R.O. 1958, c. 105, s. 38.

Damages in
actions under
two preceding
sections

39. (1) The executors or administrators of a lessor may distrain upon the lands demised for any terms or at will for the arrears of rent due to the lessor in his lifetime in like manner as such lessor might have done if living.

Executors or
administrators of
a lessor may
distrain for
arrears

(2) The arrears mentioned in this section may be distrained for at any time within six months after the determination of the term of lease and during the continuance of the possession of the tenant from whom the arrears became due; and the law relating to distress for rent is applicable to the distress so made. R.O. 1958, c. 105, s. 39.

40. (1) Where one or more joint contractors, obligors or partners die, the person interested in the contract, obligation

Representatives
of deceased joint
contractors liable
although the
other joint
contractors be
living

or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several, notwithstanding that there may be another person liable under the contract obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies are not liable to a greater extent than they would have been if this section had not been passed. R.O. 1958, c. 105, s. 40.

Devisee in trust may raise money by sale or mortgage to satisfy charges notwithstanding want of express power in will

41. (1) Where by any will a testate charges his real estate or any specific portion thereof with the payment of his debts or with the payment of any legacy or other specific sum of money and devises the estate so charged to any trustee or trustees for the whole of his estate or interest therein and does not make any express provision for the raising of such debts, legacy or sum of money out of such estate the said trustee or trustees notwithstanding any trusts actually declared by the testator may raise such debt, legacy or money by a sale and absolute disposition by public auction or private contract of the said real estate or any part thereof or by a mortgage of the same or partly in one mode and partly in the other and a mortgage so executed may reserve such rate of interest and fix such period of repayment as the person or persons executing the same think proper. R.O. 1958, c. 105, s. 41.

Power given by preceding section extended to survivors, devisees, etc.

42. (1) The powers conferred by section 41 extend to every person in whom the estate devised is for the time being vested by survivorship, descent or devise, or to any person appointed under any power in the will or by the Court to succeed to the trusts created by the will. R.O. 1958, c. 105, s. 42.

Purchasers, etc., not bound to inquire as to exercise of powers

43. (1) Purchasers or mortgagees are not bound to inquire whether the powers conferred by sections 41 and 42 or any of them have been duly and correctly exercised by the person or persons acting in virtue thereof. R.O. 1958, c. 105, s. 43.

Directions to sell, etc., may be exercised by executor when no other person is appointed to exercise same

44. (1) Where there is in any will or codicil of a deceased person a direction, whether express or implied, to sell, dispose of, appoint, mortgage, encumber or lease any real estate and no person is by the said will, or a codicil thereto, or otherwise by the testator appointed to execute and carry the same into effect, the executors, if any, named in the will or codicil shall execute and carry into effect every such direction to sell,

dispose of, appoint, encumber or lease such real estate, and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if the executors were appointed by the testator to execute and carry the same into effect. R.O. 1958, c. 105, s. 44.

45. (1) Where in a will or codicil thereto power is given to an executor or executors to sell, dispose of, appoint, mortgage, encumber or lease any real estate, or any estate or interest therein, whether such power is express or arises by implication, and where from any cause letters of administration with such will annexed have been committed by a court of competent jurisdiction to any person and such person has given the security required by this Ordinance such person shall exercise every such power and sell, dispose of, appoint, mortgage, encumber or lease the real estate and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if the last named person had been appointed by the testator to execute such power. R.O. 1958, c. 105, s. 45.

Administrator with will annexed may exercise powers of sale given to the executor

46. (1) Where a person has entered into a contract in writing for the sale and conveyance of real estate, or any estate or interest therein, and the person has died intestate, or without providing by will for the conveyance of the real estate, or estate or interest therein, to the person entitled or to become entitled to the conveyance under the contract then, if the deceased would be liable to execute a conveyance were he alive, the executor, administrator or administrator with the will annexed, as the case may be, of the deceased person, shall give to the person entitled a good conveyance or conveyances of the estate and of such nature as the said deceased, if living, would be liable to give; and the conveyances are as valid and effectual as if the deceased were alive at the time of the making thereof and had executed them but shall not have any further validity. R.O. 1958, c. 105, s. 46.

Or when no person named in the will to execute powers of sale

47. (1) Every executor, administrator and administrator with the will annexed shall, as respects the additional powers vested in him by this Ordinance and any money or assets by him received in consequence of the exercise of the powers, be subject to all the liabilities and compellable to discharge all the duties of whatsoever kind that as respects the acts to be done by him under the powers would have been imposed upon an executor or other person appointed by the testator to execute them or in case of there being no such executor or person would have been imposed by law or by any court of competent jurisdiction. R.O. 1958, c. 105, s. 47.

Duties and liabilities of an executor and administrator acting under the powers of this Ordinance

Powers given by this Ordinance to two or more vest in survivors

48. (1) Where there are several executors, administrators or administrators with the will annexed and one or more of them die, the powers created by this Ordinance shall vest in the survivor or survivors.

In case of deficiency of assets debts to rank *pari passu*

(2) On the administration of the estate of a deceased person, in case of the deficiency of assets, debts due to the Crown and to the executor or administrator of the deceased person, and debts to others including therein respectively debts by judgment or order, and other debts of record, debts by speciality, simple contract debts, and such claims for damages as by any Ordinance are payable in like order or administration as simple contract debts, shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing in this section contained shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate. R.O. 1958, c. 105, s. 48.

If claims rejected and notice given an action must be brought within a certain period

49. (1) Where the executor or administrator gives to any creditor or other person of whose claims against the estate he has notice, or to the solicitor or agent of the creditor or other person, notice in writing that he disputes the claim and that he intends to avail himself of this section, the creditor or other person shall commence his action in respect of the claim within six months after the notice is given in case the debt or some part thereof is due at the time of the notice or within three months from the time the debt or some part thereof falls due if no part thereof is due at the time of the notice, and in default the claim shall be forever barred.

(2) Unless the creditor or other person within ten days after the receipt of the notice notifies the executor or administrator that he withdraws his claim, such executor or administrator may, if he thinks fit, apply to a judge for an originating summons calling upon such creditor or other person to establish his claim and upon the return of such summons the judge may allow or bar the claim or make such other order as to him may seem meet with or without costs against either party. R.O. 1958, c. 105, s. 49.

As to liability of executor or administrator in respect of covenants, etc., in leases

50. (1) Where an executor or administrator liable as such to the rents, covenants or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered, has satisfied all the liabilities under the lease or agreement for a lease which have accrued due and been claimed up to the time of the assignment hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in

respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease or agreement to a purchaser thereof, he shall be at liberty to distribute the residuary estate of the deceased to and among the persons entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said lease or agreement for a lease; and the executor or administrator shall not, after having assigned the lease or agreement and having, where necessary, set apart such sufficient fund, be personally liable in respect of any subsequent claim under the said lease or agreement.

(2) Nothing in this section prejudices the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed. R.O. 1958, c. 105, s. 50.

51. (1) Where an executor or administrator liable as such to the rents, covenants or agreements contained in any conveyance or rent charge, whether such rent be by limitation of use, grant or reservation or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said conveyance or agreement for a conveyance as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property or assigned the said agreement for such conveyance to a purchaser, he shall be at liberty to distribute the residuary estate of the deceased to and amongst the persons entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said conveyance or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment and having, where necessary, set apart such sufficient fund, be personally liable in respect of any subsequent claim under the said conveyance or agreement for conveyance.

As to liability of executor or administrator in respect of rents, etc., in conveyances or rent charges, etc.

(2) Nothing in this section prejudices the right of the grantor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed. R.O. 1958, c. 105, s. 51.

Notices to
creditor

52. (1) Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of a particular class or classes of creditors in which the creditors are not designated by name, or an executor or an administrator has given such or the like notices as in the opinion of the court in which such trustee, assignee, executor or administrator is sought to be charged, would have been given by the court in an action for the execution of the trusts of the deed or assignment or in an administration suit, for creditors and others to send in their claims against the person for the benefit of whose creditors such deed or assignment is made or against the estate of the testator or intestate, the trustee, assignee, executor or administrator shall, at the expiration of the time named in the notices or the last of the notices for sending in claims, be at liberty to distribute the proceeds of the trust estate or the assets of the testator or intestate, as the case may be, or any part thereof, among the persons entitled thereto having regard to the claims of which the trustee, assignee, executor or administrator has then notice, and shall not be liable for the proceeds of the trust estate or assets, or any part thereof so distributed to any person of whose claim the trustee, assignee, executor or administrator had notice at the time of the distribution thereof or a part thereof, as the case may be.

(2) Nothing in this section prejudices the right of any creditor or claimant to follow the proceeds of the trust estate or the assets, or any part thereof, into the hands of the person or persons who may have received the same respectively. R.O. 1958, c. 105, s. 52.

SUMMARY APPLICATION TO COURT FOR ADVICE

Trustee, etc.,
may apply for
advice on
management of
trust property

53. (1) Any trustee, guardian, executor or administrator may without the institution of an action apply to a judge in the manner prescribed by Rules of Court for the opinion, advice or direction of the judge on any question respecting the management or administration of the trust property or the assets of a testator or intestate.

(2) The trustee, guardian, executor or administrator acting upon the opinion, advice or direction given by a judge is deemed so far as regards his own responsibility to have discharged his duty as trustee, guardian, executor or administrator in the subject matter of the application, unless he has

been guilty of any fraud or wilful concealment or misrepresentation in obtaining the opinion, advice or direction. R.O. 1958, c. 105, s. 53.

ALLOWANCE TO TRUSTEES, ETC.

54. (1) A trustee under a deed, settlement or will, an executor or administrator, a guardian appointed by a court and testamentary guardian or other trustee, howsoever the trust is created, is entitled to any fair and reasonable allowance for his care, pains and trouble and his time expended in and about the trust estate, allowed by a judge. R.O. 1958, c. 105, s. 54.

Allowance to trustees

55. (1) Where application is made to a judge for the purpose of settling the amount of compensation allowed by section 54, the judge may settle the amount although the trust estate is not before a judge in any action. R.O. 1958, c. 105, s. 55.

Allowance to be made although the estate not before the judge

56. (1) A judge may allow to the executor or trustee or administrator acting under a will or letters of administration a fair and reasonable allowance for his care, pains and trouble and his time expended in or about the executorship, trusteeship or administration of the estate and effects vested in him under the will or letters of administration, and in administering, disposing of and arranging and settling the same and generally in arranging and settling the affairs of the estate and may make orders from time to time therefor, and compensation shall be allowed to an executor, trustee or administrator in passing his accounts. R.O. 1958, c. 105, s. 56.

Judge may order an allowance to executor, etc., out of the estate for his trouble

57. (1) Sections 54, 55 and 56 do not apply where the allowance is fixed by the instrument creating the trust. R.O. 1958, c. 105, s. 57.

Where allowance fixed by instrument

58. (1) Where a solicitor is a trustee, guardian or personal representative and has rendered necessary professional services to the estate, regard may be had, in making his allowance, to that circumstance, and the allowance shall be increased by such amount as may be deemed fair and reasonable in respect of these services. R.O. 1958, c. 105, s. 58.

Solicitor entitled to profit costs

JUDICIAL TRUSTEES

59. (1) Where application is made to a judge by or on behalf of the person creating or intending to create a trust or by or on behalf of a trustee or beneficiary the judge may in his discretion appoint a person-(in this Ordinance called a

Power of judge to appoint judicial trustee

judicial trustee) to be a trustee of the trust either jointly with any other person or as sole trustee, and if sufficient cause is shown, in place of all or any existing trustees.

(2) The administration of the property of a deceased person whether a testator or intestate shall be a trust and the executor or administrator shall be a trustee within the meaning of this section.

(3) Any fit and proper person nominated for the purpose in the application may be appointed a judicial trustee and in the absence of such nomination or if the judge is not satisfied of the fitness of a person nominated, any other competent person may be appointed, and in any case a judicial trustee shall be subject to the control and supervision of a judge.

(4) A judge may either on request or without request give to a judicial trustee any general or special directions in regard to the trust or the administration thereof.

(5) There may be paid to a judicial trustee out of the trust property any remuneration not exceeding the prescribed limits which a judge may assign in each case and the remuneration assigned shall, save as the judge may for special reasons otherwise order, cover all his work and personal outlay.

(6) Once in every year the accounts of every trust of which a judicial trustee has been appointed shall be audited and a report thereon made to a judge by the prescribed persons and in any case where a judge so directs an inquiry into the administration by a judicial trustee of any trust, or into any dealing or transaction of a judicial trustee shall be made in the prescribed manner. R.O. 1958, c. 105, s. 59.

CHAPTER V-1

VARIATION OF TRUSTS ORDINANCE

1. This Ordinance may be cited as the *Variation of Trusts Ordinance*, 1962 (5th), c. 6, s. 1. Short title

2. (1) Where any property is held on trusts arising before or after the coming into force of this Ordinance under any will, settlement or other disposition, a judge may, if he thinks fit, by order approve on behalf of any person described in subsection (2) any arrangement, whether or not there is any other person beneficially interested who is capable of assenting thereto, varying or revoking all or any of the trusts or enlarging the powers of the trustees of managing or administering any of the property subject to the trusts. Judge may approve arrangement varying a trust on behalf of certain persons

(2) A judge may approve an arrangement under subsection (1) on behalf of the following persons: Persons on behalf of whom judge may approve

- (a) any person having, directly or indirectly, an interest, whether vested or contingent, under the trusts who by reason of infancy or other incapacity is incapable of assenting;
- (b) any person, whether ascertained or not, who may become entitled, directly or indirectly, to an interest under the trusts as being at a future date or on the happening of a future event a person of any specified description or a member of any specified class of persons;
- (c) any person unborn; or
- (d) any person in respect of any interest of his that may arise by reason of any discretionary power given to anyone on the failure or determination of any existing interest that has not failed or determined,

but the arrangement shall not be approved on behalf of any person described in paragraph (a), (b) or (c) unless the carrying out thereof appears to be for the benefit of that person. 1962 (5th), c. 6, s. 2.

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

CHAPTER V-2

VITAL STATISTICS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Vital Statistics Ordinance*. R.O. 1958, c. 106, s. 1. Short title

INTERPRETATION

- 2. (1)** In this Ordinance Definitions
- “birth” means the complete expulsion or extraction from its mother, irrespective of the duration of pregnancy, of a product of conception in which, after such expulsion or extraction, there is breathing, beating of the heart, pulsation of the umbilical cord, or unmistakable movement of voluntary muscle, whether or not the umbilical cord has been cut or the placenta is attached; “birth”
 - “burial permit” means a permit to bury, cremate, remove or otherwise dispose of a dead body; “burial permit”
 - “cemetery” means land set apart or used as a place for the interment or other disposal of dead bodies, and includes a vault, mausoleum and crematorium; “cemetery”
 - “cemetery owner” includes the manager, superintendent, caretaker or other person in charge of a cemetery; “cemetery owner”
 - “certificate” means a certified extract of the prescribed particulars of a registration filed in the office of the Registrar General; “certificate”
 - “cremation” means disposal of a dead body by incineration in a crematorium; “cremation”
 - “Registrar General” means the Registrar General of Vital Statistics provided for under this Ordinance; “Registrar General”
 - “district registrar” means a district registrar appointed under this Ordinance; “district registrar”
 - “error” means incorrect information, and includes omission of information; “error”
 - “funeral director” means any person who takes charge of a dead body for the purpose of burial, cremation or other disposition; “funeral director”

"incapable"	"incapable" means unable because of death, illness, absence from the Territory or otherwise ;
"Indian"	"Indian" means an Indian within the meaning of the <i>Indian Act</i> ;
"inspector"	"inspector" means an inspector of vital statistics provided for under this Ordinance ;
"married woman"	"married woman" includes a woman who, within the period of gestation prior to the birth of the child in respect of whose birth an application for registration is made under this Ordinance, was lawfully married ;
"occupier"	"occupier" means the person occupying any dwelling, and includes the person having the management or charge of any public or private institution where persons are cared for or confined, and the proprietor, manager, keeper or other person in charge of an hotel, inn, apartment, lodging-house or other dwelling or accommodation ;
"prescribed"	"prescribed" means prescribed by this Ordinance or the regulations ;
"registration district"	"registration district" means a registration district established under section 24 ;
"province"	"province" means a province of Canada and includes the Northwest Territories ;
"state"	"state" means a state or territory of the United States of America and includes the District of Columbia ;
"stillbirth"	"stillbirth" means the complete expulsion or extraction from its mother after at least twenty-eight weeks pregnancy of a product of conception in which, after such expulsion or extraction, there is no breathing, beating of the heart, pulsation of the umbilical cord or unmistakable movement of voluntary muscle ;
"subregistrar"	"subregistrar" means a subregistrar appointed under this Ordinance. R.O. 1958, c. 106, s. 2.

REGISTRATION OF BIRTHS AND STILLBIRTHS

Notice of births **3.** (1) Every person who assists at the birth of a child in the Territory shall, within twenty-four hours thereafter, deliver or mail to the district registrar or subregistrar of the registration district in which the birth occurs a notice of the birth in Form H. R.O. 1958, c. 106, s. 3.

Registration of births **4.** (1) The birth of every child born in the Territory shall be registered as provided in this Ordinance.

(2) Within thirty days after the day of the birth of a child in the Territory Statement respecting births

- (a) the mother of the child,
- (b) if the mother is incapable, the father of the child,
- (c) if the mother and the father are incapable, the person standing in the place of the parents of the child,
- (d) if there is no person to whom paragraph (a), (b) or (c) applies, the person required to give notice of the birth under section 3, or
- (e) if there is no person to whom paragraph (a), (b), (c) or (d) applies, the occupier of the premises in which the child is born, if he has knowledge of the birth,

shall complete and deliver or mail a statement in the prescribed form respecting the birth to the district registrar of the registration district, in which the birth occurs, but the Registrar General may accept the statement of the father although the mother is not incapable.

(3) The father of an illegitimate child is not required to comply with subsection (2). Exception

(4) If more than one child is delivered during a single confinement, a separate statement for each child shall be completed and delivered or mailed as provided in subsection (2), and in each statement the number of children born during the confinement and the number of the child in the order of birth shall be given. Plural births

(5) Except as provided in subsection (6), the birth of a child of a married woman shall be registered showing the surname of the husband as the surname of the child, and the particulars shall be given as those of the father of the child. Child of married woman

(6) Where a child is born to a married woman, if she files with the district registrar a statutory declaration that at the time of conception she was living separate and apart from her husband, and that her husband is not the father of the child, no particulars as to the father shall be given in the statement required under subsection (2) unless the mother and a person acknowledging himself to be the father jointly so request in writing, in which case the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of the birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon. Idem.

Child of unmar-
ried woman

(7) Except as provided in subsection (8), the registration of the birth of a child of an unmarried woman shall show the surname of the mother as the surname of the child, and no particulars as to the father shall be given.

Idem.

(8) Where an unmarried woman who is the mother of a child and a person acknowledging himself to be the father jointly so request in writing, the particulars of the person so acknowledging may be given as the particulars of the father, and the birth may be registered showing the surname of the person so acknowledging as the surname of the child and, if the request is made after the registration of birth, the Registrar General may amend the registration in accordance with the request by making the necessary notation thereon.

Additional
evidence
required by
Registrar
General

(9) If the district registrar is not satisfied as to the truth and sufficiency of the statement, he shall refer the matter to the Registrar General who, in order to obtain such additional evidence as may be necessary, may request further details from any person whom he believes to have knowledge of the facts, or he may appoint a person to enquire into the matter.

Continuing
liability to
complete
statement

(10) If the statement is not completed and delivered or mailed in the manner and within the time herein provided, every person upon whom the duty of completing and delivering or mailing the statement is imposed remains liable to perform that duty notwithstanding the expiration of the time provided, and is, in respect of each successive period of seven days thereafter during which he neglects or fails to complete and deliver or mail the statement, guilty of a violation of this Ordinance.

Registration of
birth by district
registrar

(11) Upon the receipt, within one year from the day of the birth, of a statement in Form A respecting the birth, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth. R.O. 1958, c. 106, s. 4.

Registration of
birth by Regis-
trar General

5. (1) When a birth is not registered within one year from the day of the birth, or the district registrar has referred the matter to the Registrar General under subsection 4(9), if application for the registration thereof is made by any person to the Registrar General in Form A; verified by statutory declaration and accompanied by the prescribed fee and by a statement respecting the birth and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith,

shall register the birth by signing the statement, and thereupon the statement constitutes the registration of the birth. R.O. 1958, c. 106, s. 5.

6. (1) Where a child is legitimated by the inter-marriage of his parents subsequent to his birth, then upon the parents delivering a statement of the birth in Form A, together with such additional information as may be required and the prescribed fee, the Registrar General shall

Registration of child legitimated by subsequent marriage

(a) register the birth as if the parents had been married to each other at the time of the birth, and

(b) make a notation in the statement that the registration was made under this section,

and the statement constitutes the registration of the birth.

(2) Upon proof that one of the parents is incapable, the application may be made by the other parent.

(3) Where the birth has been registered under subsection 4(8), the application may be made by the child. R.O. 1958, c. 106, s.6.

7. (1) Except in a case to which the *Change of Name Ordinance* applies, where the birth of a child has been registered and the given name under which the child was registered is changed or the child was registered without a given name, both parents, the surviving parent, the guardian of the child or the person procuring the name to be changed or given may deliver to the Registrar General an application setting forth the particulars of the change or of the name given, accompanied by a statutory declaration completed by the applicant, and

Alteration or addition of given names by Registrar General

(a) a baptismal certificate, showing the given name under which the child was baptized, or

(b) if a baptismal certificate is not procurable, such other documentary evidence as is satisfactory to the Registrar General,

and the Registrar General, upon being satisfied that the application is made in good faith and upon payment of the prescribed fee, shall make a notation of the change in the registration of birth.

(2) Except in a case to which the *Change of Name Ordinance* applies no alteration of or addition to a given name shall be made under this section in any registration of a birth unless that name of the child was changed or the name was given to the child within ten years next after the day of the birth.

Time limit for alteration or addition

Statutory limitation of alteration or addition (3) No alteration of or addition to a given name shall be made in a registration of a birth, except as provided in this Ordinance.

Changes to be shown on certificate (4) Any birth certificate issued after the making of a notation pursuant to this section shall be prepared as if the registration had been made containing the changed or new name at the time of registration. R.O. 1958, c. 106, s. 7.

REGISTRATIONS OF ADOPTIONS

Registration of adoptions 8. (1) Upon receipt of a certified copy of an order of adoption transmitted under the *Child Welfare Ordinance*, the Registrar General shall register the adoption.

Notation of adoption on birth registration (2) Where, at the time of the registration of the adoption or at any time thereafter, there is in the office of the Registrar General a registration of birth of the person adopted, the Registrar General, upon production of evidence satisfactory to him of the identity of the person, shall cause a notation of the adoption and of any change of name consequent thereon to be made on registration of the birth, and shall cause a notation of the registration of the birth to be made on the registration of the adoption.

Registration of adoption order of another jurisdiction (3) Where a person is adopted pursuant to an order, judgment or decree of adoption made by a court of competent jurisdiction in another province, state or country, the Registrar General,

(a) upon receipt of a certified copy of the order, judgment or decree, and

(b) upon production of evidence satisfactory to him of the identity of the person,

shall, if there is in his office a registration of the birth of that person, register the adoption in the manner prescribed by subsection (1) and shall make the notations required by subsection (2).

Adoption of person born outside the Territory (4) Where a person born outside the Territory is adopted under the *Child Welfare Ordinance*, the Registrar General, upon receipt of a certified copy of the order of adoption, shall transmit a certified copy of the order to the person having charge of the registration of births in the province, state or country in which the person was born.

Certificate after adoption (5) Where a notation of adoption and of a change of name consequent thereon has been made on a registration of birth, any birth certificate issued thereafter shall be issued as if the

registration had been made in the name as changed. R.O. 1958, c. 106, s. 8.

REGISTRATION OF MARRIAGES

9. (1) Every marriage solemnized in the Territory shall be registered as provided in this Ordinance. Registration of marriages

(2) Every person authorized by law to solemnize marriage in the Territory shall, immediately after he solemnizes a marriage, prepare a statement in Form B respecting the marriage, which statement shall be signed by Statement respecting marriage

- (a) each of the parties to the marriage,
- (b) at least two adult witnesses to the marriage, and
- (c) the person by whom the marriage was solemnized.

(3) The person by whom the marriage was solemnized shall, within thirty days after the day of marriage, deliver or mail the completed statement in Form B to the district registrar or to a subregistrar of the registration district in which the marriage was solemnized. Time for registration

(4) Upon the receipt within one year from the day of a marriage of a completed statement in Form B respecting the marriage, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the marriage by signing the statement, and thereupon the statement constitutes the registration of the marriage. R.O. 1958, c. 106, s. 9. Registration of marriage by Registrar General

10. (1) When a marriage is not registered within one year from the day of the marriage, if application for registration thereof is made by any person to the Registrar General in Form B, verified by statutory declaration and accompanied by the prescribed fee and by a statement respecting the marriage and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the marriage by signing the statement, and thereupon the statement constitutes the registration of the marriage. R.O. 1958, c. 106, s. 10. Late registration

11. (1) Where a marriage is dissolved or annulled by an order of a court of competent jurisdiction in the Territory the clerk or registrar of the Court shall transmit two copies of the document affecting the dissolution or annulment to the Registrar General who shall register the dissolution or annulment. Registration of divorces or annulments

Notation of divorces or nullities

(2) Where, at the time of the registration of the dissolution of annulment or at any time thereafter, there is in the office of the Registrar General a registration of the marriage dissolved or annulled, the Registrar General, upon production of evidence satisfactory to him as to the identity of the persons, shall cause a notation of the dissolution or annulment of the marriage to be made on the registration of the marriage, and shall cause a notation of the registration of the marriage to be endorsed on the registration of the dissolution or annulment.

Registration of divorce or nullity outside the Territory of marriage solemnized in the Territory

(3) Where a marriage is dissolved or annulled by an Act of the Parliament of Canada, or by an order, judgment or decree made by a court of competent jurisdiction in a province, the Registrar General,

(a) upon receipt of the Act or a certified copy of the order, judgment or decree, and

(b) upon production of evidence satisfactory to him of the identity of the persons,

shall, if there is in his office a registration of the marriage, register the dissolution or annulment in the manner prescribed by subsection (1) and shall make the notations required by subsection (2).

Certificate after divorce

(4) Every marriage certificate issued after the making of a notation pursuant to this section shall contain a copy of the notation.

Marriage performed in a province

(5) Where a marriage solemnized in a province is dissolved or annulled in the Territory, the Registrar General upon receipt of the statement respecting the dissolution or annulment shall transmit a certified copy of the order, judgment or decree to the person having charge of registration of marriages in the province in which the marriage was solemnized. R.O. 1958, c. 106, s. 11.

REGISTRATION OF DEATHS

Registration of deaths

12. (1) The death of every person who dies in the Territory shall be registered as provided in this Ordinance.

Particulars of deceased

(2) The personal particulars of the deceased shall, upon the request of the funeral director, be completed in Form C and delivered to the funeral director

(a) by the nearest relative of the deceased present at the death or in attendance at the last illness of the deceased;

- (b) if no such relative is available, by any relative of the deceased residing or being within the registration district;
- (c) if no relative is available, by any person present at the death;
- (d) by any other person having knowledge of the facts;
- (e) by the occupier of the house in which the death occurred; or
- (f) by the coroner who has been notified of the death and has made an inquiry or held an inquest regarding the death.

(3) The medical practitioner who was last in attendance during the last illness of the deceased, or the coroner who conducted an inquest on the body or an inquiry into the circumstances of the death, shall forthwith after the death, inquest or inquiry, as the case may be, complete and sign the medical certificate in Form C, stating therein the cause of death according to the International List of Causes of Death, as last revised by the International Commission assembled for that purpose, and shall forthwith cause the medical certificate to be delivered to the funeral director.

Certification by medical practitioner or coroner

(4) Where a death occurs without medical attendance, or where a medical practitioner is not available to complete the medical certificate in Form C, and there is no reason to believe that the death was the result of any of the circumstances set forth in subsection (5), the district registrar or subregistrar shall thereupon inquire into the facts and shall complete the medical certificate.

Death without medical attendance

(5) Subject to subsection 15 (2), where there is reason to believe that a person has died

Deaths by violence or misadventure

- (a) as a result of violence or misadventure,
 - (b) by unlawful means,
 - (c) as a result of negligence or misconduct on the part of others, or
 - (d) under circumstances that require investigation,
- no acknowledgement of registration of the death and no burial permit shall be issued by the district registrar unless
- (e) the body has been examined by the coroner and inquiry has been made into the circumstances of the death,
 - (f) the coroner has signed the medical certificate of the cause of death in accordance with subsection (3), and
 - (g) the other provisions of this Ordinance respecting the registration of the death have been complied with.

Duty of funeral director

(6) Upon receipt of the personal particulars respecting the deceased and of the medical certificate in Form C, the funeral director shall complete the form, and shall forthwith deliver the completed form to the district registrar or to a subregistrar of the registration district in which the death occurred, or if the place of death is not known, to the district registrar or to a subregistrar of the registration district in which the body was found. R.O. 1958, c. 106, s. 12.

Registration of death by district registrar

13. (1) Upon the receipt within one year from the day of a death of a statement in Form C, respecting the death, the district registrar, if he is satisfied as to the truth and sufficiency thereof, shall register the death by signing the statement, and thereupon the statement constitutes the registration of the death, and if he is requested to do so, he shall issue a burial permit in Form D.

Statement received by registrar of another district

(2) Where it is impracticable to deliver Form C to the proper district registrar or to a subregistrar, the form may be delivered to the nearest district registrar who shall

- (a) register the death by signing the form and issue a burial permit, in Form D, and
- (b) forward the registration forthwith to the Registrar General with a copy to the appropriate district registrar. R.O. 1958, c. 106, s. 13.

Registration of death by Registrar General

14. (1) When a death is not registered within one year from the day of death, or the district registrar refuses to register a death, if application for registration thereof is made by any person to the Registrar General in Form C verified by statutory declaration, and accompanied by the prescribed fee and by a statement respecting the death and such other evidence as may be prescribed, the Registrar General, if he is satisfied as to the truth and sufficiency of the matters stated in the application and that the application is made in good faith, shall register the death by signing the form, and thereupon the form constitutes the registration of the death. R.O. 1958, c. 106, s. 14.

Issuance of notice on coroner's warrant

15. (1) When a person dies under any of the circumstances referred to in subsection 12(5), if it is impossible for the coroner to complete a medical certificate, the district registrar, upon the coroner releasing the body for burial, shall issue a burial permit in Form D and the coroner shall, within two days of his determining the cause of death, or of the completion of his investigation, deliver or mail to the district registrar a medical certificate.

Registration before burial or other disposition

(2) No person shall

- (a) bury or otherwise dispose of the body of any person who dies in the Territory,
- (b) except temporarily for the purpose of preparing the body for burial, remove it from the registration district in which the death occurred or the body was found, or
- (c) conduct or take part in a funeral or religious service in connection with the burial or other disposition of the body,

unless the death is registered as provided in this Ordinance and a burial permit has been obtained and is in the possession of the person conducting the funeral or religious service.

(3) Where the body of any person is to be removed by a common carrier to the place of burial or other disposition, the removal shall not take place unless the prescribed copies of the burial permit have been affixed to the outside of the casket.

Removal of body

(4) The funeral director at the place of burial or other disposition shall

Duties of funeral director

- (a) remove any copies of the burial permit affixed to the outside of the casket;
- (b) deliver a copy of the burial permit to the person conducting the funeral or religious service; and
- (c) deliver a copy of the burial permit to the cemetery owner.

(5) Subsections (2), (3) and (4) do not apply in areas where it is not possible to register the death and obtain a burial certificate within a period during which a body should be buried, but in all such cases any person who conducted the burial or other service or otherwise disposed of the body of a deceased person shall report as soon as possible all circumstances of the death and burial or other disposal of the body to a district registrar or subregistrar who shall forthwith enquire into such circumstances and make a full report to the Commissioner and the Commissioner may take such action as he may consider appropriate. R.O. 1958, c. 106, s. 15.

Reports to be made when burial, etc., made before certificate obtained

16. (1) Where a stillbirth occurs,

Stillbirth birth registration

- (a) the person who would have been responsible for the registration thereof as provided in section 4, if it had been a birth, shall complete and deliver or mail Form A to the district registrar or subregistrar of the registration district in which the birth occurred; and
- (b) the person responsible for the registration of the death as provided in section 14 shall complete the personal

Death registration

particulars in Form C and deliver such form to the funeral director.

Funeral director to deliver particulars to district registrar

(2) The funeral director upon receipt of the personal particulars and the medical certificate in Form C shall complete the form and deliver it to the district registrar or subregistrar of the district in which the stillbirth occurred.

Burial permit issued

(3) Upon receipt of Form C respecting the stillbirth, the district registrar or subregistrar, as the case may be, shall issue a burial permit in Form D. R.O. 1958, c. 106, s. 16.

No burial allowed without burial permit

17. (1) No cemetery owner shall permit the burial or cremation of a dead body in the cemetery, unless the funeral director or the person officiating at the burial has delivered to him a burial permit in Form D.

Quarterly returns of burials and cremations

(2) Every cemetery owner shall on the first day of January, April, July and October in each year prepare a quarterly report in Form G of the burials and cremations that took place during the previous quarter, and shall, as the mails permit, transmit that report together with all burial permits in Form D received by him in respect thereof to the district registrar for transmission to the Registrar General.

Report where no burials or cremations

(3) Where no burials or cremations have taken place during a quarter the cemetery owner shall prepare and transmit to the district registrar for transmission to the Registrar General, as the mails permit, a nil report for that quarter. R.O. 1958, c. 106, s. 17.

REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON HIGH SEAS

Births and deaths on high seas

18. (1) Upon receipt from the Minister of Transport of information transmitted under the *Canadian Shipping Act* respecting the birth of a child or the death of a person on board a ship whose port of registry is within the Territory, the Registrar General, if he is satisfied as to the truth and sufficiency of the particulars received, shall register the birth or death. R.O. 1958, c. 106, s. 18.

CHURCH RECORDS

Filing of church records of baptisms, marriages or burials

19. (1) Where registers or records, of baptisms, marriages or burials kept by any church or religious body in the Territory are now on file or are hereafter with the approval of the Registrar General placed on file in the office of the Registrar General, the registers or records shall be preserved and shall remain in the custody of the Registrar General as part of the records of his office. R.O. 1958, c. 106, s. 19.

CHANGE OF NAME

20. (1) Where the name of a person is changed under the *Change of Name Ordinance* or under a statute of a province, the Registrar General, on production to him of proof of the change and evidence satisfactory to him as to the identity of the person,

Notation to be made by Registrar General

- (a) if the birth or marriage of the person is registered in the Territory, shall cause a notation of the change to be made on the registration thereof; and
- (b) if the change was made under the *Change of Name Ordinance*, and the person was born or married outside the Territory, shall transmit a copy of the proof of the change of name,
 - (i) where the person was born or married in a province, to the officer in charge of registration of births and marriages in that province, or
 - (ii) where the person was born or married outside of Canada, to the Deputy Minister of the Department of Citizenship and Immigration.

(2) Every birth or marriage certificate issued after the making of a notation under this section shall be issued as if the registration had been made in the name as changed. R.O. 1958, c. 106, s. 20.

Certificate after change of name

FRAUDULENT REGISTRATIONS AND CERTIFICATES

21. (1) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or such other evidence satisfactory to the Registrar General as may be adduced by any person interested, the Registrar General, if he is satisfied that a registration was fraudulently or improperly made, may order that a notation be made on the registration to that effect and order that every certificate issued in respect of that registration be delivered to him for cancellation.

Cancellation of registration and birth certification

(2) Where a notation has been made under subsection (1); no certificate shall be issued thereafter in respect of the registration.

Certificate

(3) On written application by any person and after notice to and hearing of all persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or such other evidence satisfactory to the Registrar General as may be adduced by a person interested, the Registrar General, if he is satisfied that a certificate was

Certificates fraudulently or improperly obtained or used

obtained or is being used for fraudulent or improper purposes, may make an order requiring the delivery to him of that certificate.

Certificate to be delivered to Registrar General

(4) A person who has in his possession or under his control a certificate in respect of which an order has been made under subsection (1) or (3) shall forthwith, upon receipt of the order, deliver the certificate to the Registrar General, who shall preserve it in a permanent file together with the order and all documents relating thereto. R.O. 1958, c. 106, s. 21.

CORRECTIONS OF ERRORS IN REGISTRATIONS

Corrections by district registrar or subregistrar

22. (1) If, while the registration of a birth, stillbirth, marriage or death is in the possession of a district registrar or subregistrar it is reported to him that an error exists in the registration, he shall inquire into the matter and if he is satisfied that an error has been made he may correct the error according to the facts by making a notation of the correction on the registration without altering the original entry.

Correction by personal appearance

(2) If the person who furnished the information contained in the registration to be corrected appears in person, the district registrar or subregistrar may permit correction by altering the original entry.

Correction by Registrar General

(3) If, after a registration has been received or made by the Registrar General, it is reported to him that an error exists in the registration, the Registrar General shall inquire into the matter and, upon the production of evidence satisfactory to him verified by statutory declaration, he may correct the error by making a notation of the correction on the registration without altering the original entry.

Certificate from registration after correction

(4) If after the correction of an error, application is made for a certificate, the certificate shall be prepared as if the registration has been made containing correct particulars at the time of registration. R.O. 1958, c. 106, s. 22.

ADMINISTRATION

Appointments

23. (1) The Commissioner may appoint

Registrar General

(a) a Registrar General of Vital Statistics who shall be responsible for the administration of this Ordinance and for the direction and supervision of staff;

Deputy Registrar General

(b) a Deputy Registrar General of Vital Statistics to assist the Registrar General and to perform the duties of that officer during the absence of the Registrar

General or while the office of Registrar General is vacant; and

- (c) an inspector or inspectors of Vital Statistics, to perform such duties as may be prescribed by the Registrar General. R.O. 1958, c. 106, s. 23. Inspectors

24. (1) The Registrar General may establish registration districts and may from time to time extend, reduce, subdivide or abolish any registration district or merge it in whole or in part with one or more registration districts. Registration districts

(2) The Registrar General may appoint a district registrar for each registration district. R.O. 1958, c. 106, s. 24. Appointment of district registrar

25. (1) A district registrar may appoint in writing one or more subregistrars who may exercise the powers and perform the duties of the district registrar within an area in the district. R.O. 1958, c. 106, s. 25. Appointment of subregistrar

26. (1) Every district registrar shall Reports of district registrar

- (a) during the first week of each month prepare and transmit to the Registrar General as the mails permit, a report in Form J showing all births, marriages and deaths recorded by him during the previous month;
- (b) keep a register in the form prescribed of all births, marriages and deaths recorded by him; Register to be kept
- (c) retain all duplicate schedules, forms and documents received by him in a place of safety; and Documents to be safeguarded
- (d) under the supervision and direction of the Registrar General and in accordance with regulations enforce the Ordinance in his registration district and shall make an immediate report to the Registrar General of any violation of this Ordinance of which he has knowledge. R.O. 1958, c. 106, s. 26. Violations to be reported

27. (1) Every subregistrar shall, Reports of subregistrar

- (a) on the first day of each month, prepare and transmit to his district registrar as the mails permit, a report in Form J showing each registration of birth, marriage or death reported to him, together with all documents received relevant thereto, and
- (b) make an immediate report to the district registrar of any violation of the Ordinance of which he has knowledge. R.O. 1958, c. 106, s. 27. Violations to be reported

- 28.** (1) The fees to be paid under this Ordinance shall be those prescribed by the regulations.
- (2) Except in the case of a delayed registration, no fee shall be charged for the registration of a birth, marriage or death.
- (3) Except in the case of a delayed registration and as provided in subsection (4), any person who claims, charges or collects a fee for registration of a birth, marriage or death, commits an offence against this Ordinance.
- (4) A fee of twenty-five cents for each registration of birth, marriage or death shall be paid from the Yukon Consolidated Revenue Fund to
- (a) a subregistrar receiving such a registration and returning it complete to the district registrar, or
 - (b) a district registrar receiving such a registration, except where the registration is received from a subregistrar, and returning it complete to the Registrar General. R.O. 1958, c. 106, s. 28; 1964 (2nd), c. 3, s. 1.

SEARCHES

- 29.** (1) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that the information is not to be used for an unlawful or improper purpose, have a search made
- (a) for the registration in his office of any birth, stillbirth, marriage, death, adoption, change of name or dissolution or annulment of marriage, or
 - (b) for the record of any baptism, marriage or burial placed on file in the office of the Registrar General under section 19.
- (2) The Registrar General shall make a report on the search which shall state whether or not the birth, stillbirth, marriage, death, adoption, change of name, or dissolution or annulment of marriage, baptism or burial is registered or recorded and, if registered, shall state the registration number thereof, and shall contain no further information. R.O. 1958, c. 106, s. 29.

ISSUANCE OF CERTIFICATE AND COPIES

- 30.** (1) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that

it is not to be used for an unlawful or improper purpose, obtain a certificate in Form E in respect of the registration of the birth of any person, which certificate shall contain the following particulars only of the registration :

- (a) the name of the person ;
- (b) the date of birth ;
- (c) the place of birth ;
- (d) the sex of the person ;
- (e) the date of registration ; and
- (f) the serial number of the registration.

(2) A certified copy of the registration of a birth may be issued only

Certified copy of
registration of
birth

- (a) to a person who requires it for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copy,
- (b) to an officer of Her Majesty in right of Canada who requires it for use in the discharge of his official duties, or
- (c) to a person upon the order of a judge, and only upon application and upon payment of the prescribed fee.

(3) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that it is not to be used for an unlawful or improper purpose, obtain a certificate in Form F in respect of the registration of a marriage, which certificate shall contain the following particulars only of the registration :

Marriage
certificate

- (a) the names of the parties to the marriage ;
- (b) the date of the marriage ;
- (c) the place where the marriage was solemnized ;
- (d) the date of registration ; and
- (e) the serial number of the registration.

(4) A certified copy of the registration of a marriage may be issued only

Certified copy of
registration of
marriage

- (a) to a party to the marriage ;
- (b) to a person requiring it for a stated reason where the stated reason in the opinion of the Registrar General justifies the issuance of the certified copy ; or
- (c) to a person upon the order of a judge, and only upon application and upon payment of the prescribed fee.

(5) The Registrar General shall, upon application and the payment of the prescribed fee, issue to a person whose mar-

Certificate of
divorce or
annulment

riage has been dissolved or annulled in the Territory and who intends to remarry, a certificate of the dissolution or the annulment.

- Idem (6) The certificate of dissolution or annulment shall state:
- (a) the names of the parties to the marriage;
 - (b) the date of the marriage;
 - (c) the place of the marriage;
 - (d) that it was dissolved or annulled, as the case may be;
 - (e) the name and official position of the person who made the decree by which the marriage was dissolved or annulled;
 - (f) the number and date of the decree;
 - (g) that the decree is final and not subject to appeal;
 - (h) the date of the certificate; and
 - (i) the number of the certificate.
- Death certificate (7) Any person, upon applying, furnishing information satisfactory to the Registrar General and paying the prescribed fee, may, if the Registrar General is satisfied that it is not to be used for an unlawful or improper purpose and subject to subsection (6) obtain a certificate in Form K in respect of the registration of a death.
- Cause of death to be disclosed only in special cases (8) No certificate issued in respect of the registration of death shall be issued in such a manner as to disclose the cause of death as certified on the medical certificate, except,
- (a) where required for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copies, or
 - (b) upon the order of a judge.
- Certified copy of registration of death (9) A certified copy of the registration of a death may be issued only
- (a) to a person who requires it for a stated reason that in the opinion of the Registrar General justifies the issuance of the certified copy, or
 - (b) to a person upon the order of a judge,
- and only upon application and upon payment of the prescribed fee.
- Certificates from church records (10) Any person, upon applying and paying the prescribed fee, may, with the approval of the Registrar General and subject to the same limitations as those respecting certified copies set out in subsections (2), (4) and (9), obtain a certificate in respect of the record of a baptism, marriage or burial placed on file under section 19.

(11) No certificate, certified copy or photographic print shall be issued under this Ordinance in respect of the registration of an adoption. R.O. 1958, c. 106, s. 30; 1966 (2nd), c. 14, s. 1-2. No certificate of adoption

31. (1) Every certificate or certified copy issued under section 30 shall be issued by the Registrar General and no person other than a person authorized by this Ordinance to do so shall issue any document. Certificates to be issued only by Registrar General

(2) Where the signature of the Registrar General, Deputy Registrar General, district registrar or subregistrar is required for any purposes of this Ordinance, the signature may be written, engraved or lithographed. Signatures

(3) Every document issued under this Ordinance under the signature of the Registrar General is and remains valid, notwithstanding that such person has ceased to hold office before the issue of the certificate. R.O. 1958, c. 106, s. 31. Certificate valid after change of Registrar General

32. (1) Every certificate purporting to be issued under section 30 is admissible in evidence in any court in the Territory as *prima facie* evidence of the facts certified to be recorded, and every certified copy purporting to be issued under section 30 is so admissible as *prima facie* evidence of the facts recorded therein and it is not necessary to prove the signature or official position of the person by whom the certificate or certified copy purports to be signed. Certificates as evidence

(2) Notwithstanding subsection (1) or any other Ordinance, no birth certificate and no certified copy of a registration of birth or stillbirth, purporting to be issued under section 30 is admissible in evidence to affect a presumption of legitimacy. R.O. 1958, c. 106, s. 32. Exception

33. (1) Where an application for the registration of a birth, stillbirth, marriage or death is refused by the Registrar General, if, within one year of the refusal, an application is made to a judge, the judge, upon being satisfied that the application is made in good faith and as to the truth and sufficiency of the evidence adduced on the application, and having regard to the standards respecting delayed registration set forth in the regulations for the guidance of the Registrar General may make an order requiring the Registrar General to accept the application and register the birth, stillbirth, marriage or death. Appeal from refusal of Registrar General to register

Registrar
General to
comply with
order

(2) The Clerk of the Court shall forthwith send a copy of the order to the Registrar General who shall comply with the order and attach the copy to the registration.

Appeal from
refusal of
Registrar
General to
search or issue
certificate

(3) Where an application for a certificate or a search in respect of the registration of a birth, stillbirth, marriage or death is refused by the Registrar General, if within one year of the refusal, application is made to a judge, the judge upon being satisfied that the application is made in good faith and that the applicant has good reason for requiring the certificate or search, may make an order requiring the Registrar General to issue the certificate or make the search and the Clerk of the Court shall forthwith forward a copy of the order to the Registrar General who shall comply therewith.

Appeal from
order of Regis-
trar General

(4) Where the Registrar General has made an order under section 21, any person interested may, within two years thereafter, appeal therefrom to a judge, and the judge may make an order confirming or setting aside the order of the Registrar General and the order of the judge is final and binding on the Registrar General.

Notice

(5) At least fourteen days' notice of the application or appeal shall be served on the Registrar General. R.O. 1958, c. 106, s. 33.

GENERAL

Power to take
affidavits

34. (1) The Registrar General, Deputy Registrar General and every district registrar and subregistrar may take the affidavit or statutory declaration of any person for the purposes of this Ordinance. R.O. 1958, c. 106, s. 34.

Publication by
Registrar
General of
statistical
information

35. (1) The Registrar General may compile, publish and distribute such statistical information respecting the births, stillbirths, marriages, deaths, adoptions, changes of name and dissolutions and annulments of marriage registered during any period as he may deem necessary and in the public interest. R.O. 1958, c. 106, s. 35.

Records proper-
ty of Her
Majesty

36. (1) All records, books and other documents pertaining to any office under this Ordinance are the property of Her Majesty.

Delivery of
records to
successor

(2) Where a vacancy occurs in any office under this Ordinance the person having the possession, custody or control of any books, records or other documents pertaining to the office shall give up possession of and deliver them to the successor in office or to any person appointed by the Regis-

trar General to demand and receive them, and any person who fails to comply with this subsection is guilty of an offence. R.O. 1958, c. 106, s. 36.

37. (1) No district registrar or subregistrar and no person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not entitled thereto any information obtained under this Ordinance or allow any such person to inspect or have access to any records containing information obtained under this Ordinance. Secrecy

(2) Nothing in subsection (1) prohibits the compilation, furnishing or publication of statistical data that does not disclose specific information with respect to any particular person. R.O. 1958, c. 106, s. 37. Exception

38. (1) Every notation made under this Ordinance shall be effected without altering or defacing any entry on the registration, and shall be dated and initialled by the person making the notation. R.O. 1958, c. 106, s. 38. Notations

PENALTIES

39. (1) Every person who fails to give any notice, or to furnish any statement, certificate or particulars required under this Ordinance, within the time limited by this Ordinance, commits an offence and is liable on summary conviction to a fine not exceeding fifty dollars. Failure to carry out duties

(2) Where two or more persons are under a duty to give any notice, or to register, or to furnish any statement, certificate or particulars required under this Ordinance and the duty is carried out by any of such persons, the other or others are thereupon discharged from carrying out such duty. R.O. 1958, c. 106, s. 39. Compliance by one person sufficient

40. (1) Every person who wilfully removes, defaces or destroys a public notice relating to the registration of births, stillbirths, marriages or deaths commits an offence and is liable on summary conviction to a fine not exceeding ten dollars. R.O. 1958, c. 106, s. 40. Interference with public notice

41. (1) Subject to subsection (2) and any other Ordinance, a common carrier transporting or carrying, or accepting through its agents or employees for transportation or carriage, the body of a deceased person without the prescribed burial permit issued under this Ordinance commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars. Failure to obtain permit for transportation of body

- Proviso** (2) Where the death occurred outside the Territory and the body is accompanied by a burial permit issued in accordance with the law in force where the death occurred, the burial permit is sufficient to authorize the transportation or carriage of the body into or through the Territory. R.O. 1958, c. 106, s. 41.
- Secrecy** **42.** (1) Every person who violates section 37 commits an offence and is liable on summary conviction to a fine not exceeding two hundred dollars. R.O. 1958, c. 106, s. 42.
- General penalty** **43.** (1) Every person who fails to comply with or violates any provision of this Ordinance or the regulations, for which failure or violation no penalty is otherwise provided, commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars. R.O. 1958, c. 106, s. 43.
- Consent to prosecutions** **44.** (1) No prosecution shall be commenced under this Ordinance without the consent of the Registrar General. R.O. 1958, c. 106, s. 44.

REGULATIONS

- Regulations** **45.** (1) The Commissioner may make regulations
- (a) prescribing the duties of the Registrar General;
 - (b) prescribing the duties of and records to be kept by the district registrars and subregistrars;
 - (c) prescribing the information and returns to be furnished to the Registrar General, and fixing the times when information and returns are to be transmitted;
 - (d) fixing the time when district registrars shall forward registrations to the Registrar General;
 - (e) designating the persons who may have access to or may be given copies of, or information from, the records in the office of the Registrar General or of a district registrar, and prescribing an oath of secrecy to be taken by such persons;
 - (f) for the registration of births, marriages, deaths, stillbirths, dissolutions and annulments of marriage, adoptions or changes of name in cases not otherwise provided for in this Ordinance;
 - (g) prescribing a schedule of fees to be paid under this Ordinance and providing for the waiver of payment of any fees in favour of any person or class of persons;
 - (h) designating the persons who may sign registrations and notations;

- (i) prescribing the evidence on which the Registrar General may register a birth, stillbirth, marriage or death after one year from the date thereof ;
- (j) prescribing the evidence on which the Registrar General may make a registration of birth in the case of a child legitimated by the inter-marriage of his parents, subsequent to his birth ;
- (k) prescribing special forms for registration in respect of Indians ;
- (l) authorizing every Indian superintendent in the Territory to act *ex officio* as district registrar for the Indians under his jurisdiction ; and
- (m) for the purpose of effectively securing the due observance of this Ordinance, and generally for the better carrying out of the provisions thereof and obtaining the information required thereby. R.O. 1958, c. 106, s. 45 ; 1964 (2nd), c. 3, s. 2.

DISINTERMENT

46. (1) Subject to the *Coroners Ordinance*,

Authorizing order required

- (a) no person shall disinter or assist in the disinterment of, and
- (b) no person being a cemetery owner shall in respect of his cemetery permit the disinterment of,

the body of a deceased person which has been buried unless an order authorizing the disinterment has been secured pursuant to this section.

(2) Subject to the *Coroners Ordinance*,

Reburial certificate required

- (a) no person shall rebury or assist in the reburial of, and
- (b) no person being a cemetery owner shall in respect of his cemetery permit the reburial of,

the body of a deceased person which has been disinterred unless a reburial certificate has been secured pursuant to this section.

(3) Any person desiring to disinter a body buried in a cemetery, building or any other place in the Territory may make application to the Registrar General in the form of an affidavit setting out

Application

- (a) the place where the body is buried ;
- (b) the purpose of the proposed disinterment ; and
- (c) the place, if any, where it is intended to rebury the body.

(4) An application shall be accompanied by

Document and fee to accompany application

- (a) the written consent of the medical officer for the area in which the body is buried to the disinterment of the body;
- (b) the prescribed fee; and
- (c) where the application is by a person who is not the owner of the cemetery where the body is buried,
 - (i) the consent of the owner of the cemetery where the body is buried, or
 - (ii) proof that reasonable notice of the application has been given to the owner of the cemetery where the body is buried.

Order may be issued

(5) Where the Registrar General is satisfied that the disinterment should be allowed he may issue an order authorizing the disinterment.

Authority to cemetery owner

(6) An order made under subsection (5) is sufficient authority to the cemetery owner in which the body is buried to allow the disinterment thereof.

Offence and penalty

(7) A person who disinters a body or causes a body to be disinterred pursuant to an order obtained under subsection (5) and disposes thereof in any manner other than that authorized by the order 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 such fine and such imprisonment.

Fee for reburial certificate

(8) The Registrar General may, upon application accompanied by the prescribed fee, issue a reburial certificate for the reburial of a body that has been disinterred.

No fee for reburial upon Coroner's Warrant

(9) No fee is payable for the issuance of a reburial permit for the reburial of the body of a deceased person which has been disinterred upon a Coroner's Warrant. R.O. 1958, c. 106, s. 46; 1964 (2nd), c. 3, s. 3.

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

Vital Statistics
SCHEDULE

Chap. V-2

FORM A

CERTIFICATE OF REGISTRATION OF BIRTH

- | | Registered No. |
|---|---|
| 1. Place of birth | 2. Full name of child |
| 3. Sex of Child | 4. Single, twin, triplet or other? |
| 5. Was the child born alive? | 6. Are parents married? |
| | 7. Date of birth |
|
 | |
| FATHER | MOTHER |
| 8. Full name | 15. Full maiden name |
| 9. Residence at time of this birth | 16. Residence at time of this birth |
| 10. Nationality | 17. Nationality |
| 11. Racial origin | 18. Racial origin |
| 12. Age at time of this birth
years | 19. Age at time of this birth
years |
| 13. Birthplace | 20. Birthplace |
| 14. Occupation | 21. Children of this mother
(including the present birth) |
| (a) Trade or profession | (a) Number born alive |
| (b) Business in which employed | (b) Number now living |
| | (c) Number stillborn
(born dead after twenty-eight weeks' pregnancy) |
| 22. Was this a premature birth?
If premature, state length of pregnancy in completed weeks | |
| 23. Name of physician in attendance at birth | |
| 24. Person giving information sign here | Address |
| 25. Place of marriage of parents | |
| 26. Date of marriage of parents | |
| 27. Date of registration | |

.....
Registrar of Vital Statistics

R.O. 1958, c. 106, Form A.

FORM B

YUKON TERRITORY

CERTIFICATE OF REGISTRATION OF MARRIAGE

	Registered No.
District of	Sub-district of

BRIDEGROOM

- | | |
|----------------------------------|---------------------------|
| 1. Full name | 2. Occupation |
| 3. Bachelor, Widower or Divorced | 4. Age |
| 5. Religious denomination | 6. Residence |
| 7. Place of birth | 8. Name of father |
| 9. Place of birth of father | 10. Maiden name of mother |
| 11. Can bridegroom read? Write? | |

BRIDE

- | | |
|---------------------------------|---------------------------|
| 12. Full name | 13. Occupation |
| 14. Spinster, Widow or Divorced | 15. Age |
| 16. Religious denomination | 17. Residence |
| 18. Place of birth | 19. Name of father |
| 20. Place of birth of father | 21. Maiden name of mother |
| 22. Can bride read? Write? | |

23. Date of marriage	day of	19
24. Place of marriage		
25. By licence or banns		

26. Signature of	Groom
	Bride
27. Signatures of Witnesses	Name Address
	Name Address

I certify the above stated particulars are true to the best of my knowledge and belief:

Clergyman
Address
Religious denomination

Registered No.	Filed at this office	day
of	19	

.....
Registrar of Vital Statistics

FORM C

YUKON TERRITORY

CERTIFICATE OF REGISTRATION OF DEATH

Registered No.

- 1. Place of Death
- 2. Length of Stay
- 3. Name of Deceased Residence
- 4. Sex
- 5. Nationality (Citizenship)
- 6. Racial Origin
- 7. Single, Married, Widowed or Divorced
- 8. Birthplace
- 9. Date of Birth
- 10. Age

OCCUPATION

- 11. Trade, profession or kind of work
- 12. Kind of industry or business
- 13. Date deceased last worked at this occupation
- 14. Total years spent in this occupation
- 15. If married give name of wife or husband of deceased

FATHER

- 16. Name
- 17. Birthplace

MOTHER

- 18. Maiden name
- 19. Birthplace
- 20. Person giving information sign here
Address Relationship to deceased
- 21. Place of Burial, Cremation or Removal
Date of burial or removal
- 22. Undertaker

Medical Certificate of Death

- 23. Date of Death
- 24. I hereby Certify that I attended deceased from.....
.....19..... to.....19..... and last saw h.....
alive on.....19.....

CAUSE OF DEATH

- (a) Immediate cause
- (b) Morbid conditions, if any, giving rise to immediate cause
- (c) Other morbid conditions (if important) contributing to death but not causally related to immediate cause.

- 25. If a woman, was the death associated with pregnancy?.....
- 26. Was there a surgical operation?.....
 Date of operation.....19.....
 State findings..... Was there an autopsy?.....
- 27. If death was due to external causes (violence) fill in also the following:
 Accident, suicide or homicide?.....
 Date of injury.....19.....
 Manner of injury
 Nature of injury
 Specify whether injury occurred in industry, in home or in public place
 Signed by..... M.D.
 Address..... Date.....19.....
- 28. Registrar's Record Number
- 29. Filed.....19.....

.....
Registrar of Vital Statistics

R.O. 1958, c. 506, Form C.

FORM D

Vital Statistics

Yukon Territory

BURIAL PERMIT

I,.....Registrar at.....
do hereby certify that particulars of the undermentioned death have been duly registered, and permission is hereby granted for the burial of the body.

Name of Deceased

Place of death

Date of death

Age

Sex

Name and address of undertaker or person
in charge of funeral arrangements

Given under my hand at.....this.....day
of.....19.....

.....
Registrar

R.O. 1958, c. 106, Form D.

FORM G

Vital Statistics

Yukon Territory

Return of theCemetery at.....

For quarter ending.....19.....

1. Name of deceased

2. Sex

3. Place of death

4. Date interment

5. If Cemetery surveyed

state number of lot,

otherwise describe place of interment, from nearest boundary of cemetery

6. Name and address of registrar who issued burial permit

I hereby certify that the above is a correct return

of the persons interred in.....

.....Cemetery during quarter

year ending.....19.....

(Caretaker, Superintendent, Owner, Clergyman or other person in charge)

P.O. Address.....

R.O. 1958, c. 106, Form G.

(Obverse side)

FORM H

Vital Statistics for the Yukon Territory

PHYSICIAN'S NOTICE OF BIRTH.

To the District Registrar at.....

I beg to notify you of the following birth in accordance with the *Vital Statistics Ordinance*, section 3.

Date of Birth.....Sex.....

Place of Birth.....

Name of Father.....

Maiden Name of Mother.....

Address of Parents.....Single, Twins.....

Was child born alive.....Triplets.....

Signature of Physician.....

Address of Physician.....Date.....

(Reverse side)

DOMINION STATISTICS—FREE

(Penalty for improper use \$50.00)

To be forwarded by attending Physician to the local Registrar who will obtain registration from parents.



District Registrar of Vital Statistics,

.....

Post Office
Canada

R.O. 1958, c. 106, Form H.

CHAPTER W-1

WAGES RECOVERY ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Wages Recovery Ordinance*. 1963 (2nd), c. 2, s.1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“employee” means a person in receipt of or entitled to wages from an employer, whether the relationship of employee and employer has been terminated or not; “employee”

“employer” includes every person responsible for the payment of wages to an employee under any Ordinance or law in force in the Territory; “employer”

“wages” means wages, salary, pay, commission or other compensation for labour or personal service, whether measured by time, job, piece or otherwise. 1963 (2nd), c. 2, s. 2. “wages”

APPLICATION OF ORDINANCE

3. (1) This Ordinance applies to every hiring of labour or contract of personal service wherever made, performed or intended to be performed within the Territory. 1963 (2nd), c. 2, s. 3. Application

CONTRACTS OF SERVICE AND LABOUR

4. (1) Every contract of personal service or hiring of labour for a period of more than one year shall be in writing and signed by the contracting parties. 1963 (2nd), c. 2, s. 4. Certain contracts to be in writing

RECOVERY OF WAGES

5. (1) Every employee who has a cause of complaint against his employer for Laying of information by employee

(a) the non-payment of wages earned by him in the course of his employment,

(b) the non-payment of wages payable to him under a contract of personal service of hiring of labour, or

(c) improper dismissal,

may lay an information in writing and under oath before a justice, stating the cause of the complaint and the amount of wages claimed, if any. 1963 (2nd), c. 2, s. 5.

Summons

6. (1) Upon receiving the information referred to in section 5 the justice shall summon the employer to appear before him at a time and place to be stated in the summons to answer the complaint of the employee.

Service by justice or complainant

(2) The justice receiving the information shall arrange for service of the summons upon the employer, unless the complainant undertakes to serve him.

Service on individual

(3) The summons and every subsequent document pertaining to the proceedings may be served upon the person to whom it is directed either by delivering it to his personally, or if he cannot conveniently be found, by sending it to him by registered mail, or by leaving it with any person who appears to be at least sixteen years of age, at his last known place of residence or at the place where he carried or carries on business.

Service on corporation

(4) Where an employer is a corporation, the summons shall be served by delivering it to the manager, secretary, or other executive officer of the corporation or of any branch thereof.

Service on municipality

(5) Where an employer is a municipality, the summons shall be served by delivering it to the mayor, clerk or treasurer of the municipality.

Proof of service

(6) Service of a summons may be proved by oral evidence given under oath by the person who served it or by his affidavit made before a justice, a notary public or a commissioner for oaths. 1963 (2nd), c. 2, s. 6.

Costs of adjournment

7. (1) An adjournment of the hearing of any complaint may be allowed on payment to the employee of the amount, to be fixed by the justice, of the employee's costs in attending the hearing unless the justice is of the opinion that the adjournment has been made necessary by any act or omission of the employee.

Payment to be made forthwith

(2) Unless immediate payment of the amount referred to in subsection (1) is dispensed with by the justice, payment thereof shall be made forthwith by the employer. 1963 (2nd), c. 2, s. 7.

Order of justice after hearing on non-payment of wages

8. (1) If upon examining into the matters alleged in any complaint made under paragraph 5(1)(a) or 5(1)(b), the justice

is satisfied that the cause of complaint has been established, he shall order the employer to pay to the employee the amount of wages found to be due to him and

- (a) may order the employer to pay to the employee the amount of wages that would have been due to him up to the time when his service could or would have been legally ended by notice from the employer or by passage of time, together with the costs of prosecution, and
- (b) may release the employee from his employment if the term of his employment has not expired, whether or not the employee is still in actual service with the employer.

(2) The amount ordered to be paid pursuant to this section shall not exceed six months' wages or one thousand dollars, whichever is the lesser, exclusive of the costs of prosecution. 1963 (2nd) c. 2, s. 8.

Maximum award

9. (1) If, upon examining into the matters alleged in any complaint made under paragraph 5(1)(c) the justice is satisfied that the cause of complaint has been established, he may, in addition to making any order contemplated by section 8, order the employer to pay to the employee

Order of justice after hearing improper dismissal

- (a) such further amount as to him appears reasonable under the circumstances, not exceeding, however, one month's wages,
- (b) an amount equal to the wages the employee would have earned between the date of the improper dismissal and the determination of the complaint by the justice, or
- (c) two hundred dollars,

whichever is the least, together with the costs of prosecution.

(2) Any amount ordered to be paid pursuant to this section shall not exceed the amount, if any, by which one thousand dollars exceeds the amount ordered to be paid pursuant to section 8, exclusive of the costs of prosecution.

Maximum award

(3) Where a justice in examining into a complaint for improper dismissal is satisfied that

Order where dismissal justified

- (a) the employee was dismissed from the employment of the employer for good and sufficient cause, and
- (b) wages are due to the employee,

he may order the employer to pay to the employee the amount of the wages found to be due, not exceeding six months' wages or one thousand dollars, whichever is the

lesser, together with the costs of prosecution. 1963 (2nd) c. 2, s. 9.

Dispensing with costs on commencement of prosecution

10. (1) The justice before whom any complaint is made under this Ordinance, upon being satisfied that the complainant is unable, by reason of lack of funds or otherwise, to pay the costs of the proceedings in connection with the complaint, may dispense with the payment of such costs or extend the time for their payment until after the determination of the proceedings.

Adding of amount to judgment

(2) Where the payment of costs has been dispensed with or postponed under this section and an order is made in favour of the complainant, such costs, including any other costs allowed to the complainant, shall be included in the amount ordered to be paid by the employer. 1963 (2nd) c. 2, s. 10.

Set-off of counterclaim by employer

11. (1) If upon the hearing of a complaint under section 8 it is proven to the satisfaction of the justice that the employer would be entitled, in a civil action, to a claim by way of set-off or counterclaim, he shall deduct from any wages or other amount found to be due to the employee, the amount that in the opinion of the justice the employer would be entitled to by the set-off or counterclaim.

Dismissal of complaint if set-off or counterclaim greater

(2) If the amount, as established pursuant to subsection (1), that the employer would be entitled to by the set-off or counterclaim is equal to or greater than the amount determined to be due to the employee, the justice shall dismiss the complaint. 1963 (2nd) c. 2, s. 11.

Time for payment of order

12. (1) Unless the employer satisfies the justice under oath that he is unable to pay the full amount ordered to be paid forthwith and intends to pay the same within a specified time, the order of the justice shall direct payment of the amount ordered to be paid by the employer to be made forthwith.

Security on postponement of payments

(2) Where a justice does not order payment by an employer to be made forthwith pursuant to subsection (1), he may order such security as he deems adequate to be given as a condition of the postponement of such payment. 1963 (2nd) c. 2, s. 12.

Enforcement of order of justice

13. (1) In case of non-payment of any amount ordered to be paid pursuant to this Ordinance the justice may, on application of the employee in whose favour an order has been made, issue a warrant for the distress and sale of any goods and chattels of the employer not exempted from seizure under the *Exemptions Ordinance*.

(2) Where the justice determines in one day the complaints of more than one employee of the same employer and amounts are ordered to be paid by the employer to more than one such employee, the justice may issue one distress warrant covering all the amounts ordered to be paid to such employees and in the event of realization thereof the employees shall share in the proportion their claims ordered to be paid bear to the total of all such claims included therein.

Where several claim

(3) The provisions of the *Criminal Code* for enforcing an order requiring payment of a sum of money do not apply to proceedings under this Ordinance. 1963 (2nd) c. 2, s. 13.

No imprisonment for non-obedience

14. (1) An employee in whose favour an order is made under this Ordinance for a sum in excess of twenty-five dollars may file a copy of the order, signed by the justice making it, in the office of the Clerk of the Territorial Court.

Filing of justice's order in Territorial Court

(2) Upon the filing in the Territorial Court of an order for payment referred to in subsection (1) it shall become an order of such Court and may be enforced in the same manner as a judgment or order of the Court for the recovery of a debt in the amount specified in the order.

Effect of filing

(3) Until a justice's distress warrant issued under section 13 has been returned showing the amount realized thereunder, no further proceedings shall be taken by an employee on the order for payment filed in the Territorial Court. 1963 (2nd) c. 2, s. 14.

Enforcement in one court at a time only

15. (1) In the case of the death, illness, absence or resignation of the justice who has heard and determined a complaint under this Ordinance and made an order in favour of an employee for the payment of any money, any other justice, if satisfied of the fact of the order, may issue a certified copy of the order making all necessary changes therein.

Copy of order where justice has died, etc.

(2) A certified copy of an order made under subsection (1) has the same force and effect as if made by the justice who heard and determined the information and made the order. 1963 (2nd) c. 2, s. 15.

Effective copy

APPEALS

16. (1) Subject to subsection (2), no appeal lies from an order of a justice made under this Ordinance.

Appeal

Cases where allowed (2) Where an order of a justice discharges an employee from his employment or orders the payment of an amount not less than one hundred dollars exclusive of costs, an appeal lies to a judge of the Territorial Court.

Appeal to be new trial (3) The procedure on an appeal shall be by way of a new trial. 1963 (2nd) c. 2, s. 16.

Time of appeal 17. (1) Every person appealing from an order of a justice as described in subsection 16 (2) shall notify in writing the justice making the order, within fifteen days after the making of the order, of his intention to appeal.

Action of justice on appeal (2) On receiving notification of intention to appeal, the justice shall advise the respondent in writing as soon as possible of the appellant's intention to appeal and shall forward to the Clerk of the Territorial Court a copy of the order being appealed.

Extension of time for appeal (3) Where in the opinion of the judge to whom the appeal is taken extenuating circumstances exist, the time for giving the notice of intention to appeal may, on *ex parte* application, be extended for such period as to the judge seems fair and just.

Justice to notify appellant of service (4) The justice whose order is appealed from shall notify the appellant when service of the notice of intention to appeal has been made on the respondent. 1963 (2nd) c. 2, s. 17.

Time for hearing appeal 18. (1) An appeal from an order of a justice shall be heard at the first sitting of the Territorial Court held in the area wherein the cause of complaint arose, next following twenty days after service of the notice of intention to appeal upon the respondent.

When appeal to act as stay of proceedings (2) An appeal shall operate as a stay of proceedings only in respect of the amount by which the award exceeds two hundred dollars.

Power of appeal court (3) Upon hearing the appeal the judge may confirm, vary or reverse the decision of the justice or make such other order in the matter as he deems fit and just. 1963 (2nd) c. 2, s. 18.

MISCELLANEOUS

Civil remedy preserved 19. (1) Except in so far as a complaint made under this Ordinance has been determined by any order made hereunder, nothing in this Ordinance shall be held to affect any civil or other remedy for the recovery of wages or damages by an

employee from his employer or for the recovery of damages by an employer from his employee. 1963 (2nd) c. 2, s. 19.

20. (1) No proceedings shall be instituted under this Ordinance unless brought within one year after the period of service or employment has ceased or been terminated, or within six months after the last instalment of wages under the agreement of hiring or contracting of services has become due, whichever date may be the later. 1963 (2nd) c. 2, s. 20.

Limitation of actions

21. (1) Where no specific rate of wages has been expressly agreed upon by the parties, the justice may order payment of wages according to the rate that appears to him to be fair and reasonable, having regard to the current rate of wages being paid for similar work in the district. 1963 (2nd) c. 2, s. 21.

Calculation of wages where not agreed upon

22. (1) Every term of a contract or agreement, whether oral or written, expressed or implied, whereby it is agreed that this Ordinance shall not apply, or that the remedies hereby provided shall not be available for the benefit of any person entering into such contract or agreement, is void. 1963 (2nd) c. 2, s. 22.

Agreement to deprive employees of benefits of Ordinance void

23. (1) Subject to subsection (2), the fees and allowance set forth in the *Criminal Code* in proceedings before summary conviction courts and justices and no others are the fees and allowances that may be allowed as costs in proceedings before a justice under this Ordinance.

Fees and allowances

(2) The costs of proceedings before a justice under this Ordinance shall include, where applicable, such amounts as the justice may allow for solicitor's fees but not exceeding

Solicitor's fees

- (a) twenty-five dollars, where the amount awarded is two hundred dollars or under;
- (b) fifty dollars, where the amount awarded is over two hundred dollars and under five hundred dollars; and
- (c) seventy-five dollars, where the amount awarded is five hundred dollars or over. 1963 (2nd) c. 2, s. 23.

CHAPTER W-2

WAREHOUSEMEN'S LIEN ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Warehousemen's Lien Ordinance*. R.O. 1958, c. 108, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions
"goods" includes personal property of every description that is deposited with a warehouseman as bailee; and "goods"
"warehouseman" means a person lawfully engaged in the business of storing goods as a bailee for hire. R.O. 1958, c. 108, s. 2. "warehouseman"

LIEN

3. (1) Subject to section 4, every warehouseman has a lien on goods deposited with him for storage, whether deposited by the owner of the goods or by his authority, or by any person entrusted with the possession of the goods by the owner or by his authority. Lien

(2) The lien is for the amount of the following warehouseman's charges: Charges covered by lien

- (a) all lawful charges for storage and preservation of the goods;
- (b) all lawful claims for money advanced, interest, insurance, transportation, labour, weighing, cooperating and other expenses in relation to the goods; and
- (c) all reasonable charges for any notice required to be given under this Ordinance, and for notice and advertisement of sale, and for sale of the goods where default is made in satisfying the warehouseman's lien. R.O. 1958, c. 108, s. 3.

4. (1) Where the goods on which a lien exists were not deposited by the owner or by his authority, but by a person entrusted by the owner or by his authority with the possession of the goods, the warehouseman shall, within two months after the date of the deposit, give written notice of the lien Notice of lien in certain cases

- (a) to the owner of the goods, including the person in whom the right of property therein is vested where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is registered under the *Conditional Sales Ordinance* at the date of deposit of the goods; and
- (b) to the grantee of the goods under any bill of sale or chattel mortgage registered under the *Bills of Sale Ordinance*, at the date of deposit of the goods.

Contents of
notice

- (2) The notice shall contain
 - (a) brief description of the goods;
 - (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman, and the name of the person by whom they were deposited; and
 - (c) a statement that a lien is claimed by the warehouseman in respect of the goods under this Ordinance.

Loss of lien from
failure to give
notice

- (3) Where the warehouseman fails to give the notice required by this section, his lien, as against the person to whom he has failed to give notice, is void as from the expiration of the period of two months from the date of the deposit of the goods. R.O. 1958, c. 108, s. 4.

ENFORCEMENT OF LIEN

Enforcement of
lien by sale of
goods

- 5. (1) In addition to all other remedies provided by law for the enforcement of liens or for the recovery of warehouseman's charges, a warehouseman may sell by public auction, in the manner provided in this section any goods upon which he has a lien for charges which have become due.

Notice of sale

- (2) The warehouseman shall give written notice of his intention to sell
 - (a) to the person liable as debtor for the charges for which the lien exists;
 - (b) to the owner of the goods, including the person in whom the right of property therein is vested, where a valid receipt note, hire receipt or other instrument evidencing a bailment or conditional sale of the goods is registered under the *Conditional Sales Ordinance* at the date of deposit of the goods;
 - (c) to the grantee of the goods under any bill of sale or chattel mortgage registered under the *Bills of Sale Ordinance*, at the date of deposit of the goods; and
 - (d) to any other person known by the warehouseman to have or who claims an interest in the goods.

(3) The notice shall contain

Contents of notice

- (a) a brief description of the goods;
- (b) a statement showing the location of the warehouse where the goods are stored, the date of their deposit with the warehouseman and the name of the person by whom they were deposited;
- (c) an itemized statement of the warehouseman's charges showing the sum due at the time of the notice;
- (d) a demand that the amount of the charges as stated in the notice and such further charges as may accrue shall be paid on or before a day mentioned, not less than twenty-one days from the delivery of the notice if it is personally delivered, or from the time when the notice should reach its destination according to the due course of mail if it is sent by mail; and
- (e) a statement that unless the charges are paid within the time mentioned the goods will be advertised for sale and sold by public auction at a time and place specified in the notice.

(4) Where the charges are not paid on or before the day mentioned in the notice, and advertisement of the sale, describing the goods to be sold, and stating the name of the person liable as debtor for the charges for which the lien exists, and the time and place of the sale, shall be published at least once a week for two consecutive weeks in a newspaper circulating in the locality where the sale is to be held.

Advertisement of sale

(5) The sale shall be held not less than thirty days from the date of the first publication of the advertisement. R.O. 1958, c. 108, s. 5.

Time of sale

6. (1) Where a notice of lien under section 4, or a notice of intention to sell under section 5 has been given, but such provisions have not been strictly complied with, if the judge before whom any question respecting to notice is tried or inquired into considers that such provisions have been substantially complied with, or that it would be inequitable to hold that the lien or sale is void by reason of such noncompliance, no objection to the sufficiency of the notice shall in any such case be allowed to prevail so as to release or discharge the goods from the lien or vitiate the sale. R.O. 1958, c. 108, s. 6.

Substantial compliance with Ordinance

7. (1) The warehouseman shall satisfy his lien from the proceeds of the sale and shall pay over the surplus, if any, to the person entitled thereto, and the warehouseman shall when paying over the surplus. deliver to the person to whom

Disposition of proceeds of sale

he pays it a statement of account showing how the amount has been computed. R.O. 1958, c. 108, s. 7.

Payment into court

8. (1) Where the surplus is not demanded by the person entitled thereto within ten days after the sale, or where there are different claimants or the rights thereto are uncertain, the warehouseman shall pay the surplus into court upon the order of a judge.

(2) The order may be made *ex parte* upon such terms and conditions as to costs and otherwise as the judge may direct, and may provide to what fund or name the amount shall be credited.

(3) The warehouseman at the time of paying the amount into court shall file in court a copy of the statement of account showing how the amount has been computed. R.O. 1958, c. 108, s. 8.

Where charges paid before sale

9. (1) At any time before the goods are sold any person claiming an interest or right of possession in the goods may pay the warehouseman the amount necessary to satisfy his lien, including the expenses incurred in serving notices and advertisement and preparing for the sale up to the time of payment and the warehouseman shall deliver the goods to the person making the payment if he is the person entitled to the possession of the goods on payment of the warehouseman's charges thereon, but if he is not so entitled the warehouseman shall retain possession of the goods according to the terms of the contract of deposit. R.O. 1958, c. 108, s. 9.

Manner of giving notices

10. (1) Where by this Ordinance any notice in writing is required to be given, the notice shall be given by delivering it to the person to whom it is to be given, or by mailing it in the post office, postage paid and registered, addressed to the person to whom it is to be given at his last known address. R.O. 1958, c. 108, s. 10.

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

CHAPTER W-3

WILLS ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Wills Ordinance*. Short title
 R.O. 1958, c. 109, s. 1.

INTERPRETATION

2. (1) In this Ordinance Definitions

“will” includes a testament, a codicil, an appointment by will or by writing in the nature of a will in exercise of a power and any other testamentary disposition ; “will”

“immovable property” includes real property and any leasehold or other interest in land ; “immovable property”

“movable property” includes personal property other than a leasehold or other interest in land ; and “movable property”

“writing” includes words printed, engraved, lithographed, typewritten or represented or reproduced by any mode of representing or reproducing words in a visible form. R.O. 1958, c. 109, s. 2. “writing”

APPLICATION

3. (1) This Ordinance applies only to wills made after the 1st day of April, 1955 and, for the purposes of this subsection, a will that is re-executed or revived by a codicil shall be deemed to be made at the time at which it is so re-executed or revived. Wills made after coming into force of Ordinance

(2) The laws respecting wills and devolution by will in force in the Territory prior to the 1st day of April, 1955 shall continue in force as if unaffected by this Ordinance with respect to wills made before that date. R.O. 1958, c. 109, s. 3. Wills made before coming into force of Ordinance

4. (1) Any person may devise, bequeath or dispose of by will all real and personal property, whether acquired before or after the making of his will, to which at the time of his death he is entitled either at law or in equity for an interest not ceasing at his death, including, without restricting the generality of the foregoing Property disposable by will

- | | |
|--------------------------------|--|
| Estates <i>pur autre vie</i> . | (a) estates <i>pur autre vie</i> , whether or not there is any special occupant thereof and whether they are corporeal or incorporeal hereditaments; |
| Contingent interests | (b) contingent, executory or other future interests in any real or personal property, whether or not the testator is ascertained as the person or one of the persons in whom they may respectively become vested and whether he is entitled thereto under the instrument creating them or under disposition by deed or will; and |
| Rights of entry | (c) rights of entry whether for breach of conditions or otherwise. R.O. 1958, c. 109, s. 4. |

CAPACITY AND EXECUTION

- | | |
|---------------------------|--|
| Infants cannot make wills | 5. (1) Subject to subsection (2), a will made by a person who is under twenty-one years of age at the time it is made is not valid. |
| Exceptions | (2) A valid will may be made by a person who is under twenty-one years of age at the time it is made, if he is, at that time, <ul style="list-style-type: none"> (a) in the Territory in connection with his duties as a member of any of the components of the Canadian Forces or of the Royal Canadian Mounted Police; or (b) a mariner or seaman at sea or in the course of a voyage. R.O. 1958, c. 109, s. 5. |
| Formalities of execution | 6. (1) Unless otherwise provided in this Ordinance, a will is not valid unless <ul style="list-style-type: none"> (a) it is in writing; (b) it is signed at the end or foot thereof by the testator or on his behalf by some other person in his presence and by his direction; (c) the signature described in paragraph (b) is made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and (d) at least two of the witnesses attest and subscribe the will in the presence of the testator, with or without a form of attestation. |
| Holograph wills | (2) A holograph will, wholly in the handwriting of the testator and signed by him, may be validly made, without any requirements as to the presence of or attestation by any witness. |

(3) A will in writing and signed by the testator or on his behalf by some other person in his presence or by his direction may be validly made by or on behalf of a testator who is a person described in subsection 5 (2), without any requirements as to the presence of or attestation by any witness. R.O. 1958, c. 109, s. 6.

Wills of soldiers, sailors, etc.

7. (1) Insofar as the position of the signature of the testator or the person signing for him is concerned, a will is valid if that signature is so placed at, after, following, under, beside or opposite to the end of the will that it is apparent on the face of the will that the testator intended to give effect, by the signature, to the writing signed as his will.

Place of signature

(2) Without restricting the generality of subsection (1), a will is not affected by reason of the fact that

Blank spaces, etc.

- (a) the signature is not immediately after the foot or end of the will or a blank space intervenes between the concluding words of the will and the signature ;
- (b) the signature is placed among the words of a testimonium or attestation clause or follows or is after or under a clause of attestation, either with or without a blank space intervening, or follows, is after, under or opposite the name of a subscribing witness ; or
- (c) the signature is on a side, page or other portion of the papers containing the will on which no disposing part of the will is written above the signature, whether or not there appears to be sufficient space on or at the bottom of the preceding side, page or other portion of the same papers to contain the signature.

(3) No signature under this Ordinance is operative to give effect to any disposition or direction that is underneath it or that follows it or that has been inserted after the signature was made. R.O. 1958, c. 109, s. 7.

Signature does not make effective subsequent dispositions

8. (1) Every will made in accordance with this Ordinance is, insofar as the execution and attestation thereof are concerned, a valid execution of a power of appointment by will, notwithstanding that it has been expressly required that a will in exercise of the power shall be executed with some additional or other form of execution or solemnity. R.O. 1958, c. 109, s. 8.

Power of appointment

9. (1) A will made in accordance with this Ordinance is not invalid by reason only of the fact that there is no further publication thereof. R.O. 1958, c. 109, s. 9.

No publication required

Incompetency of witness

10. (1) A will is not invalid by reason only of the fact that a person who attests the execution of the will is at that time or becomes at any time afterwards incompetent as a witness to prove the execution of the will.

Where gift to attesting witness

(2) Where a person attests the execution of a will and such person or his or her then wife or husband is by that will given any beneficial devise, legacy, estate, interest, gift or appointment, other than charges or directions for the payment of debts, such person is competent as a witness to prove the execution of the will or the validity or invalidity thereof, but, unless it is a will that is sufficiently attested without the attestation of such person or is one in which no attestation is necessary, the devise, legacy, estate, interest, gift or appointment is, so far only as concerns such person or the wife or husband of such person or persons claiming under either of them, null and void.

Creditor as witness

(3) Where by a will any real or personal property is charged with a debt or debts and a creditor or wife or husband of such creditor whose debt is so charged attests the execution of the will, the charging provision is not by reason only of such attestation invalid and the person so attesting is, notwithstanding such charge, competent as a witness to prove the execution of the will or the validity or invalidity thereof.

Executor as a witness

(4) No person is, by reason only of his being an executor of a will, incompetent as a witness to prove the execution of the will or the validity or invalidity thereof. R.O. 1958, c. 109, s. 10.

REVOCATION

Change of circumstances does not raise presumption

11. (1) Alteration in circumstances since the making of a will does not in itself raise any presumption of an intention to revoke the will.

Revocation in general

- (2) No will or any part thereof is revoked otherwise than by
- (a) marriage as provided in subsection (3);
 - (b) another will executed in accordance with this Ordinance;
 - (c) some writing declaring an intention to revoke the will or a part thereof and executed in accordance with the provisions of this Ordinance respecting the execution of a will; or
 - (d) burning, tearing or otherwise destroying the will by the testator or by some person in his presence and by his direction with the intention of revoking it.

(3) A will is revoked by marriage of the testator after it is made, except where Revocation by marriage

- (a) it is declared in the will that it is made in contemplation of such marriage; or
- (b) the will is made in exercise of a power of appointment and the real or personal property thereby appointed would not, in default of such appointment, pass to the heir, executor or administrator of the testator or to the persons entitled to his estate if he died intestate. R.O. 1958, c. 109, s. 11.

ALTERATIONS

12. (1) No obliteration, interlineation, cancellation by drawing lines across a will or any part thereof or other alteration made in a will after its execution is valid or has any effect, except insofar as the words or effect of the will before such alteration are not apparent or cannot be ascertained, unless such alteration is executed in accordance with the provisions of this Ordinance respecting the execution of a will. Alterations

(2) For the purposes of subsection (1), the will with such alteration as part thereof shall be held to be duly executed if the signatures or written initials of the testator and of the witnesses subscribing to the alteration are made in the margin or in some part of the will opposite or near to the alteration or at the foot, end of or opposite to a memorandum referring to such alteration and writing in some other part of the will or in a codicil thereto. R.O. 1958, c. 109, s. 12. Execution of alterations

REVIVAL

13. (1) A will or any part thereof that has been in any manner revoked shall not be revived otherwise than by its reexecution or by a codicil showing an intention to revive it and executed in accordance with the provisions of this Ordinance respecting the execution of a will. Revival

(2) Unless an intention to the contrary is shown, where a will that has been first partly revoked and then afterwards, wholly revoked is subsequently revived, the revival does not extend to that part that was revoked prior to the will being wholly revoked. R.O. 1958, c. 109, s. 13. Effect where will first partly and then wholly revoked

DEVICE AND BEQUESTS

14. (1) Where, after the execution of a will, there is a conveyance of or other alienation or act relating to any real Effect of subsequent conveyance, etc.

or personal property comprised in a will, it shall not prevent the operation of the will with respect to such estate or interest in such property as the testator has power to dispose of by will at the time of his death. R.O. 1958, c. 109, s. 14.

Will speaks from death

15. (1) Unless a contrary intention appears by it, every will shall, with reference to the real and personal property comprised in it, be construed to speak and take effect as if it had been executed immediately before the death of the testator. R.O. 1958, c. 109, s. 15.

Lapsed and void gifts

16. (1) Unless a contrary intention appears by the will, any real or personal property or interest therein that is comprised or intended to be comprised in any devise or bequest in the will and that fails or becomes void by reason of the death, within the lifetime of the testator, of the person to whom it is devised or bequeathed or by reason of the gift being contrary to law or otherwise incapable of taking effect shall be included in the residuary estate, if any, contained in the will. R.O. 1958, c. 109, s. 16.

Inclusion of leaseholds

17. (1) Unless a contrary intention appears by the will, a devise of the land of the testator described in a general manner or as being in any particular place or in the occupation of any particular person mentioned in his will or any other general devise that would describe a leasehold estate if the testator had no freehold estate shall be construed to include the leasehold estates of the testator or any of them to which the description extends, as the case may be, as well as the freehold estates. R.O. 1958, c. 109, s. 17.

Appointment by general gift

18. (1) Unless a contrary intention appears by the will, a devise or bequest of the real or personal property of the testator described in a general manner or as being in any particular place or in the occupation of any particular person mentioned in his will shall be construed to include the real or personal property of the testator or any of it to which the description extends, as the case may be, over which he may have power to appoint in any manner he may think proper and shall operate as an execution of the power. R.O. 1958, c. 109, s. 18.

Where no words of limitation

19. (1) Unless a contrary intention appears by the will, where real property is devised to any person without words of limitation, the devise shall be construed to pass the fee simple or other whole estate which the testator had power to dispose of by will in the real property.

(2) Any devise or limitation that would, heretofore, have created an estate tail, shall be construed to pass the fee simple or greatest estate the testator had in the land.

Estate tail cannot be created

(3) Unless a contrary intention appears by the will, real property that is devised to the heir or heirs of the testator or of any other person shall pass to the person or persons to whom the beneficial interest in the real property would go in the case of intestacy, R.O. 1958, c. 109, s. 19.

Devise to heirs

20. (1) In any devise or bequest of real or personal property, the words "die without issue" or "have no issue" or any other words which import a want or failure of issue of any person shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of that person and not an indefinite failure of his issue, subject to any contrary intention appearing by the will or to any requirements as to age or otherwise therein contained for obtaining a vested estate. R.O. 1958, c. 109, s. 20.

Meaning of "die without issue"

21. (1) Unless a contrary intention appears by the will, where a person

Gifts to issue of persons who predecease testator

- (a) is a child, other issue or the brother or sister of a testator to whom, either as an individual or as a member of a class, real or personal property is devised or bequeathed by the testator for an estate or interest not determinable at or before such person's death;
- (b) dies in the lifetime of the testator, either before or after the making of the will; and
- (c) leaves issue who are living at the time of the death of the testator;

the devise or bequest to such person shall not lapse but shall take effect as if it had been made directly to the persons amongst whom and in the shares in which the deceased person's estate would have been divisible if he had died intestate and without debts immediately after the death of the testator. R.O. 1958, c. 109, s. 21.

22. (1) Unless a contrary intention appears by the will, the illegitimate child of a woman is entitled to take under a testamentary gift by or to her or to her children or issue the same benefit as he would have been entitled to take if he were a legitimate child. R.O. 1958, c. 109, s. 22.

Illegitimate children

23. (1) Where no provision is made in the will of a father for his child born after his death, such child shall have the like interest in his father's estate as if the father had died

Rights of posthumous child

intestate, and, in providing for the child's share, the devises and bequests in the will shall abate proportionately and the shares of the child shall be affixed and approved by the court so as to affect as little as possible the disposition the father made of his property by his will. R.O. 1958, c. 109, s. 23.

Executor as trustee of residue

24. (1) Where any person dies after the 1st day of April, 1955 having by will appointed any person executor thereof, the executor shall be deemed a trustee of any residue not expressly disposed of for the person or persons, if any, who would be entitled to that residue in the event of intestacy, unless it appears by the will that the executor was intended to take the residue beneficially.

Where no person entitled to residue

(2) Nothing in this section affects or prejudices any rights to which an executor would have been entitled, if this Ordinance had not been passed, in cases where there is no person who would be entitled to the residue.

Unlimited devise to trustee

(3) Where real property is devised to a trustee without any express limitation of the estate to be taken by the trustee and the beneficial interest in the real property or in the surplus rents or profits thereof is not given to any person for life or, if given to a person for life, the purposes of the trust may continue beyond his life, the devise shall be construed to vest in the trustee the fee simple or whole legal estate that the testator had power to dispose of by will and not an estate determinable when the purposes of the trust are satisfied.

Devise to trustee other than for a term

(4) Unless a definite term of years absolute or determinable or an estate of freehold is thereby given to him expressly or by implication, a devise of real property to a trustee or executor shall be construed to pass the fee simple or whole estate or interest that the testator had power to dispose of by will. R.O. 1958, c. 109, s. 24.

Meaning of "mortgage"

25. (1) In this section, "mortgage" includes an equitable mortgage and any charge whatsoever whether equitable, statutory or of any other nature and any lien or claim upon freehold or leasehold property for unpaid purchase money.

Primary liability of mortgaged land

(2) Where a testator has not by will, deed or other document signified a contrary intention and dies possessed of or entitled to or under a general power of appointment by his will disposes of any interest in freehold or leasehold property that at the time of his death is subject to a mortgage, that interest, as between the different persons claiming through the testator, is primarily liable for the payment or satisfaction of the mortgage debt, and every part of the said interest,

according to its value, shall bear a proportionate part of the mortgage debt on the whole of such debt.

(3) A contrary intention shall not be deemed to be signified by

General charge of debts not a contrary intention

- (a) a general direction for the payment of any or all the debts of the testator out of his personal estate or out of his residuary estate either real or personal or both; or
- (b) a charge of debts upon such estate, unless there is further signification by words expressly or impliedly referring to all or some part of the mortgage debt.

(4) Nothing in this section affects any right of a person who is entitled to a mortgage debt to obtain payment or satisfaction thereof out of the other assets of the deceased or otherwise. R.O. 1958, c. 109, s. 25.

Mortgagee's rights not affected

CONFLICT OF LAWS

26. (1) The manner of making, the validity and the effect of a will, so far as it relates to immovable property, is governed by the law of the place where the property is situate. R.O. 1958, c. 109, s. 26.

Law governing immovable property

27. (1) Subject to subsections (2) and (3), the manner of making, the validity and the effect of a will, so far as it relates to movable property, is governed by the law of the place where the testator was domiciled at the time of his death.

Law governing movable property

(2) A will made in the Territory, whatever was the domicile of the testator at the time of the making of the will or at the time of his death, shall, so far as it relates to movable property, be held to be well made and be admissible to probate under the laws in force in the Territory if it is made in accordance with this Ordinance or in accordance with the law, in force at the time of the making thereof,

Will of movable property made in Territory

- (a) of the place where the testator was domiciled when the will was made; or
- (b) of the place where the testator had his domicile of origin.

(3) A will made outside the Territory, whatever was the domicile of the testator at the time of making the will or at the time of his death, shall, so far as it relates to movable property, be held to be well made and be admissible to probate under the laws in force in the Territory if it is made in accordance with this Ordinance or in accordance with the law, in force at the time of the making thereof,

Will of movable property made outside Territory

- (a) of the place where the testator was domiciled when the will was made ;
- (b) of the place where the will was made ; or
- (c) of the place where the testator had his domicile of origin. R.O. 1958, c. 109, s. 27.

Change of domicile

28. (1) A subsequent change of domicile of a person who has made a will shall not, in itself, effect revocation of a will or invalidate it or alter its construction. R.O. 1958, c. 109, s. 28.

TESTAMENTARY ADDITIONS TO TRUSTS

Testamentary additions to trusts

29. (1) A testator may by will make a devise or bequest, the validity of which is governed by the law of the Yukon Territory, to the trustee or trustees of a trust established or to be established

- (a) by the testator ;
- (b) by the testator and some other person or persons ; or
- (c) by some other person or persons ;

if the trust regardless of the existence, size or character of the corpus thereof, is identified in the will of the testator and the terms of the trust are set forth

- (d) in a written instrument, other than a will, executed before or concurrently with the will of the testator ; or
- (e) in the valid last will of a person who has predeceased the testator.

Trust includes life insurance trust

(2) A trust mentioned in subsection (1) includes a funded or unfunded life insurance trust, notwithstanding that the settlor has reserved any or all rights of ownership of the insurance contract.

Amendable trust not to invalidate devise or bequest

(3) A devise or bequest made under subsection (1) is not invalid because the trust

- (a) is amendable or revocable or both ; or
- (b) was amended after the execution of the will or after the death of the testator. 1969 (2nd), c. 3, s. 1.

Property devised to trust becomes part of administered in accordance with terms of the trust

30. (1) Where, in accordance with the provisions of section 29, a testator devises or bequeaths property to a trustee or trustees, unless the will of the testator otherwise provides, the property so devised or bequeathed

- (a) shall not be deemed to be held under a testamentary trust of the testator but shall become part of the trust to which it is given ; and

(b) shall be administered and disposed of in accordance with the provisions of the instrument or will setting forth the terms of the trust.

(2) A trust to which property is devised or bequeathed by a testator includes

(a) any amendments made thereto before the death of the testator, notwithstanding that the amendments were made before or after the execution of the will of the testator; and

(b) where the will of the testator so provides, any amendments to the trust after the death of the testator. 1969 (2nd) c. 3, s. 1.

31. (1) The revocation or termination before the death of a testator, of a trust to which the testator has devised or bequeathed property, causes the devise or bequest to lapse. 1969 (2nd) c. 3, s. 1.

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

CHAPTER W-4

WOODMEN'S LIEN ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Woodmen's Lien Ordinance*. R.O. 1958, c. 110, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

“defendant” means the person liable or alleged to be liable to a claim for a lien under this Ordinance; “defendant”

“labour” includes cutting, skidding, felling, hauling, scaling, rossing, banking, piling, driving, running, rafting or booming logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith; “labour”

“logs or timber” includes logs, timber, piles, telegraph poles, railway ties, pulpwood, shingle bolts, staves, fence posts and cordwood. R.O. 1958, c. 110, s. 2. “logs or timber”

CREATION AND EFFECT OF LIEN

3. (1) Every agreement entered into on the part of a workman, servant, labourer, mechanic or any other person employed in any kind of manual labour that this Ordinance shall not apply or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement is void as against the workman, servant, labourer, mechanic or other person. Contracts where rights under this Ordinance are waived are void

(2) This section does not apply to a manager, officer, foreman or other person whose wages are more than ten dollars a day exclusive of board and lodgings. R.O. 1958, c. 110, s. 3. Non-application

4. (1) Every person who performs labour in connection with logs or timber has a lien thereon and on all lumber manufactured therefrom for the amount due for the labour, and such lien is a first charge on the logs or timber or lumber and has priority over all other claims or liens thereon except a lien or claim which a timber slide company, or owner of Labourer has lien on logs

slides and booms may have thereon for or in respect of tolls. R.O. 1958, c. 110, s. 4.

REGISTRATION OF LIEN

Statement in writing must be filed

(1) The lien provided for in section 4 expires sixty days after the last day of labour in respect of which the lien exists is performed unless a statement of claim in writing verified by the affidavit of the person claiming the lien or someone duly authorized on his behalf is filed as provided in subsection (2).

Where claim to be filed

(2) A statement of claim shall be filed in the office of the Clerk of the Court. R.O. 1958, c. 110, s. 5.

What statement to contain

6. (1) The statement of claim shall be in Form A and shall set out briefly

- (a) the nature of the debt, demand or claim ;
- (b) the amount due to the claimant as near as may be, over and above any legal set-off or counterclaim ; and
- (c) a description of the logs or timber or lumber upon or against which the lien is claimed. R.O. 1958, c. 110, s. 6.

Lien not affected by mortgage, sale, etc.

7. (1) No mortgage, sale or transfer of the logs or timber upon which a lien is claimed under this Ordinance during the time limited for the filing of the statement of claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, affects the lien, but it remains in force against the logs or timber or lumber in whosoever possession the same may be found. R.O. 1958, c. 110, s. 7.

ENFORCEMENT OF LIEN

Lien enforceable in Court

8. (1) Any person who has a lien upon or against logs or timber or lumber under this Ordinance may enforce it by action in the Court.

When proceedings may be commenced

(2) Proceedings under this Ordinance may be commenced by writ of summons to enforce the lien if the amount claimed is due immediately after the statement of claim and affidavit have been filed in accordance with section 5, or, where credit was given, immediately after the expiry of the period of credit.

Lien expires unless proceedings commenced within 30 days

(3) The lien expires unless proceedings to enforce it are commenced within thirty days after the date upon which the statement of claim and affidavit were filed or, where credit

was given, within thirty days after the date upon which the period of credit expires. R.O. 1958, c. 110, s. 8.

9. (1) Where proceedings have been commenced pursuant to section 8, there shall be attached to or endorsed upon the writ of summons a copy of the statement of claim, and no other statement of claim is necessary unless ordered by the judge before whom proceedings are taken. R.O. 1958, c. 110, s. 9.

Statement of claim to be attached to writ of summons

10. (1) The judge before whom proceedings are taken to enforce a lien under this Ordinance may, upon such terms as to notice and otherwise as he deems fit, order that the proceedings be disposed of summarily by him in chambers without waiting for the regular sittings of the Court.

Judge may dispose of matter summarily

(2) The judge before whom proceedings are taken may also entertain in chambers an application to set aside a writ of summons or attachment to release logs or timber or lumber seized and may summarily dispose of the application. R.O. 1958, c. 110, s. 10.

Judge may decide application to set aside

11. (1) Upon the filing of a copy of the statement of claim and an affidavit verifying such statement, and an affidavit made and sworn to by the claimant of the amount of the claim due and owing, showing that the statement of claim and affidavit verifying it have been filed as provided by this Ordinance and stating

Under what circumstances attachment to issue

- (a) that he has good reason to believe, and does believe, that the logs or timber are about to be removed out of the Territory,
- (b) that the person indebted for the amount of the lien has absconded or is about to abscond from the Territory with intent to defraud or defeat his creditors,
- (c) that the logs or timber are about to be cut into lumber or timber or otherwise dealt with so that the same cannot be identified, and
- (d) that he is in danger of losing his claim if an attachment does not issue,

and an affidavit corroborating the affidavit of the plaintiff in respect of paragraph (a), (b) or (c) is also filed, the Clerk of the Court shall issue a writ of attachment directed to the sheriff commanding him to attach, seize and safely keep the logs or timber, or such portion of them as may be necessary to satisfy the amount claimed and the costs of the suit and of proceedings to enforce the lien and to return the writ forthwith to the Court R.O. 1958, c. 110, s. 11.

Subsequent seizure may be made

12. (1) Where additional claims are made or the amount of claim is increased or a sufficient seizure has not been made, a subsequent seizure may be made. R.O. 1958, c. 110, s. 12.

Defendant to appear to writ of attachment

13. (1) Where no writ of summons has issued, the writ of attachment shall summon the defendant to appear before the Court and a copy of the writ of attachment shall be served upon the defendant; if the defendant is not the owner of the logs or timber or lumber described in the writ of attachment, a copy of the writ shall also be served upon the owner of the logs or timber or lumber or upon the agent or person in whose possession, custody or control for the owner they may be found.

Owner may be made defendant

(2) The owner may on his own application or by the direction of a judge be made a defendant.

Statement to be served with writ of attachment

(3) A copy of the statement of claim shall be attached to the copy of the writ of attachment and served with it. R.O. 1958, c. 110, s. 13.

Where defendant or owner cannot be found, etc.

14. (1) Where the defendant or owner cannot be found within the Territory or the owner cannot be ascertained and no agent or person is in possession for the owner, a writ of attachment under this Ordinance may be served in such manner as the judge by order directs. R.O. 1958, c. 110, s. 14.

Judge to direct method of service where owner cannot be found

15. (1) Where service upon the defendant or owner has not been personal the judge, notwithstanding that a defence has not been entered, may at any time before the close of the proceedings admit the defendant and the owner or either of them to make full defence upon such terms as he deems just. R.O. 1958, c. 110, s. 15.

No seizure when in transit

16. (1) Except where logs or timber or lumber are in the possession of any person for the purpose of being driven or sorted or delivered to the owners, or to satisfy any statutory lien, the sheriff shall not seize or detain any logs, timber or lumber under this Ordinance when in transit from the place where the same were cut to the place of destination if the place of destination is within the Territory.

Service may be made on persons holding logs

(2) When logs or timber or lumber are in the possession of a person for any purpose mentioned in subsection (1), attachment of such logs or timber or lumber may be made by serving a copy of the writ of attachment upon the person driving or holding them, and from the time of the service such person shall be deemed to hold the logs or timber or

lumber both on his own behalf and for the sheriff to the extent of the lien, until the logs or timber or lumber can be driven and sorted out.

(3) When the logs or timber or lumber possessed by a person for any purpose mentioned in subsection (1) are driven or sorted out, the sheriff may receive the same from such person, and the statutory lien of the person is not released by the holding of the sheriff or his agents. R.O. 1958, c. 110, s. 16.

Sheriff may receive logs when sorted out

17. (1) When a writ of attachment is issued, if the owner of the logs or timber or lumber or any person in his behalf executes and files with the Clerk of the Court a good and sufficient bond to the person claiming the lien executed by two sureties and conditioned for the payment of the claim and for all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings together with the amount for which any other lien is claimed in any other suit, the Clerk shall, if he is satisfied as to the sufficiency of the bond, issue an order to the sheriff directing the release of the logs, timber or lumber and upon service of the order upon him the sheriff shall release them. R.O. 1958, c. 110, s. 17.

Logs to be released if bond furnished

18. (1) Any person who is served with a copy of the writ of attachment and who desires to dispute the claim shall within twenty days after service enter in the Court a notice that he disputes the claim upon the lien in whole or in part. R.O. 1958, c. 110, s. 18.

Dispute to be filed

19. (1) The defendant may at any time after service of a writ of summons or attachment and before the sale of the logs or timber or lumber pay into Court the amount for which the lien is claimed together with the amount for which any other lien is claimed and the costs of the proceedings to the date of such payment, as taxed by the Clerk of the Court if so required.

Defendant may pay into Court

(2) Upon the certificate mentioned in subsection (1) being filed in the office of the Clerk of the Court, the lien or liens are vacated and all further proceedings thereon shall cease and the person making payment is entitled to a certificate vacating the lien and to an order directing the delivery up of the logs or timber or lumber seized under the attachment or the cancellation of any bond given under section 17. R.O. 1958, c. 110, s. 19.

Effect of payment into Court

20. (1) After the expiration of the time within which notice of dispute may be entered the judge shall, in chambers

Judge to summon all interested persons

as provided by section 10 or at the next sitting of the Court, after due notice to all parties to the proceedings and to all persons claiming liens on the logs or timber or lumber and whose liens are filed pursuant to this Ordinance or to their solicitors hear all such parties and claimants and take all accounts necessary to determine the amounts, if any, due to them or any of them or to any other holders of liens who may be called by the judge to prove their liens and shall tax costs and determine by whom such costs shall be payable and settle their priorities and generally determine all matters necessary for the adjustment of the rights of all parties. R.O. 1958, c. 110, s. 20.

Judge to make report and order payment into Court

21. (1) At the conclusion of the inquiry the judge shall make his report and order which shall state his findings and direct payment into Court of the amounts, if any, found due and the costs within ten days thereafter, and in default of payment that the logs or timber or lumber be sold by the sheriff within twenty days after the default for the satisfaction of the amounts found due to the several parties upon the inquiry and costs. R.O. 1958, c. 110, s. 21.

How logs to be sold in default of payment

22. (1) When the sheriff is ordered to sell logs or timber or lumber pursuant to section 21, he shall do so in the manner and subject to the same provisions of law as goods and chattels seized or taken in execution unless the judge directs that additional publicity be given to the sale; and the amount realized by the sale shall, after deducting the expenses thereof payable to the sheriff, be paid into Court and shall upon the application of the several parties found to be entitled thereto under the order of the judge be paid out to them by the Clerk of the Court.

Where amount realized not sufficient, apportionment to be *pro rata*

(2) Where the amount realized upon a sale under subsection (1) is not sufficient to pay the claims in full and costs, the judge shall apportion the amount realized *pro rata* among the different claimants. R.O. 1958, c. 110, s. 22.

If balance still due execution may issue

23. (1) Where after the sale and distribution of the proceeds thereof any balance remains due to any person under the order made pursuant to section 21, judgment may be entered therefor against the person or persons by whom the claim was directed to be paid and execution may be issued thereupon as in the case of other judgments in the Court. R.O. 1958, c. 110, s. 23.

Lien may be discharged where nothing found due

24. (1) Where nothing is found due upon a claim filed under this Ordinance or upon any lien in respect of which

proceedings have been taken the judge before whom the proceedings are taken may direct that the lien be discharged and the logs or timber or lumber be released or the security given therefor be delivered up and cancelled and he shall also direct payment forthwith of any costs which are found due to the defendant or owner of the logs or timber or lumber. R.O. 1958, c. 110, s. 24.

25. (1) Where more money is paid into Court as the proceeds of the sale of logs or timber or lumber than is required to satisfy the liens which have been proved and the interest and costs, the remaining money shall be paid over to the party entitled to it. R.O. 1958, c. 110, s. 25.

Surplus of sale to be paid to party entitled

26. (1) Any person affected by proceedings under this Ordinance may apply to the judge before whom the proceedings are taken to dismiss the proceedings for want of prosecution and the judge may upon such application make such order as to costs or otherwise as he deems just. R. O. 1958, c. 110, s. 26.

Application to judge to dismiss proceedings

27. (1) The judge before whom proceedings are taken may at any stage of the proceedings on the application of any party, or as he sees fit, order that any person who is deemed a necessary party to the proceedings be added as a party thereto or be served with any process or notice provided for by this Ordinance; and the judge may make such order as to the costs of adding such person or as to such service as he deems just. R.O. 1958, c. 110, s. 27.

Other parties may be added

28. (1) Where proceedings are taken to enforce a lien but no lien is found to exist, judgment may be directed for any amount found due as in an ordinary case. R.O. 1958, c. 110, s. 28.

Where no lien exists judgment may be given as in ordinary case

29. (1) Nothing in this Ordinance disentitles a person to any other remedy provided by any other law for the recovery of any amount due in respect of labour or any part thereof performed upon or in connection with logs or timber. R.O. 1958, c. 110, s. 29.

Other remedies not barred

30. (1) Any number of lienholders may join in taking proceedings under this Ordinance or may assign their claims to any one or more persons, but in such case the statement of claim shall include a particular statement of the claim of every person so joining and shall be verified by the affidavit of such person or separate statements of claim may be filed

Lienholders may join in action

and verified and one writ of attachment issued on behalf of all such persons. R.O. 1958, c. 110, s. 30.

Defendant may
have suits
consolidated

31. (1) Where more than one suit is commenced under this Ordinance in respect of the same logs or timber or lumber, any defendant may apply to have the suits consolidated, and any defendant who causes additional costs by failure to apply for or assist in such consolidation is liable for such costs. R.O. 1958, c. 110, s. 31.

Where no
proceedings,
Clerk to issue
certificate

32. (1) Where no proceedings have been commenced to enforce a lien under this Ordinance the Clerk of the Court shall, upon request by any person affected thereby, furnish a certificate in Form B. R.O. 1958, c. 110, s. 32.

Procedure to be
that of Territori-
al Court

33. (1) The practice and procedure regulating actions in the Territorial Court shall, so far as not inconsistent with this Ordinance, regulate proceedings under this Ordinance. R.O. 1958, c. 110, s. 33.

SCHEDULE I

FORM A

(Section 6)

STATEMENT OF CLAIM OF LIEN

A.B., (name of claimant), of (here state residence of claimant), (if claim made as assignee then say as assignee of, stating name and address of assignor) under the *Woodmen's Lien Ordinance* claims a lien upon certain logs, timber or lumber of (here state the name and residence, if known, of the owner of the logs, timber or lumber upon which the lien is claimed) composed of (state the kinds of logs, timber or lumber such as spruce, tamarack or other logs, ties, poles, posts, etc., also where situate at the time of filing of statement), in respect of the following labour, that is to say (here give a short description of the labour for which the lien is claimed) which labour was performed for (here state the name and residence of the person upon whose credit the labour was performed) between the _____ day of _____, 19____, and the _____ day of _____, 19____, at _____ per day (or month or quantity).

The amount claimed as due (or to become due) is the sum of _____ . (When credit has been given add: The said labour was performed on credit and the period of credit will expire on the _____ day of _____, 19____).

.....
Signature of Claimant

R.O. 1958, c. 110, Form A.

AFFIDAVIT TO BE ATTACHED TO
STATEMENT OF CLAIM

I, _____, make oath and say that I have read (or have heard read) the foregoing statement of claim and I say that the facts set forth therein are to the best of my knowledge and belief true and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (naming the debtor) is entitled to credit as against me.

.....
(Signature of Claimant)

} Sworn before me at
in the
this day of .
19
.....
Commissioner for Oaths
(or as the case may be)

FORM B
(Section 32)
CERTIFICATE

In the matter of the statement of claim of lien filed on the day of _____, 19____, by (name of claimant) of (here state residence of claimant) under the *Woodmen's Lien Ordinance*, claiming a lien upon certain logs, timber or lumber of (here state name and residence of the owner of the logs, timber or lumber) of (here state name and residence of the owner of the logs, timber or lumber as set forth in the statement of claim of lien):

I certify that no proceedings have been commenced in the Territorial Court of the Yukon Territory for the enforcement of the said lien.

Dated at _____ in the Yukon Territory,
this day of , 19 .

Clerk of the Territorial Court

R.O. 1958, c. 110, Form B.

CHAPTER W-5

WORKMEN'S COMPENSATION ORDINANCE

SHORT TITLE

1. This Ordinance may be cited as the *Workmen's Compensation Ordinance*. 1966 (2nd) c. 1, s. 1. Short title

INTERPRETATION

2. (1) In this Ordinance Definitions

"accident" includes, "accident"

- (a) a fortuitous event occasioned by a physical or natural cause,
- (b) an event occasioned by a wilful and intentional act, or
- (c) the contraction of a disease caused by the conditions in a place where an industrial process, trade or occupation is carried on, if the fortuitous event, event or contraction of a disease arises out of and in the course of the employment of a workman ;

"child" in respect of a workman includes "child"

- (a) an illegitimate child of the workman,
- (b) a child (including an illegitimate child) of any child of the workman,
- (c) a child by a former marriage of the spouse of the workman, and
- (d) any person to whom the workman stands *in loco parentis*;

"compensation" includes expenses relating to the provision of medical aid ; "compensation"

"dependent" in respect of a workman means a member of the family of the workman who is wholly or partially dependent on the workman's earnings for the ordinary necessities of life or who, but for the workman's incapacity due to an accident, would have been so dependant, and a reference to a dependant spouse, child or other member of a workman's family who is a dependant of the workman ; "dependent"

"employer" includes "employer"

- (a) every person having in his employment one or more workmen,
- (b) the Government of the Yukon Territory, and

- (c) in respect of a workman who is injured, disabled or dies as a result of an accident, means the employer by whom the workman was employed at the time of the accident;
- "employment" "employment" means employment in an industry or in any part thereof;
- "industry" "industry" includes every establishment, undertaking, trade or business in or being carried on in the Territory;
- "injury" "injury" means personal injury;
- "insurer" "insurer" means an insurer approved by the Commissioner;
- "invalid" "invalid" means a person who is physically or mentally incapable of earning his living;
- "learner" "learner" means any person who, although not under a contract of service or apprenticeship, becomes subject to the hazards of an industry in the course of undergoing training or probationary work as a preliminary to employment;
- "medical aid" "medical aid" includes medical, surgical, and other services provided by a medical practitioner while practising as such, nursing services, hospital services, drugs, dressings, x-ray treatment, special treatment, transportation for an injured workman and such other things as the employer or referee may authorize or provide as medical aid for an injured workman;
- "medical practitioner" "medical practitioner" means a person who is authorized by law to practise medicine in the place where he is so practising and includes a person skilled in the art of healing who is authorized by law to practise the art of healing in the place where he is so practising;
- "member of a family" "member of a family" in respect of a workman means the workman's spouse, parent, grandparent, step-parent, child, grandchild, step-child, brother, sister, half-brother, half-sister, and a person who stands *in loco parentis* to the workman or to whom the workman stands *in loco parentis* (whether or not there is any degree of consanguinity between such person and the workman), and includes an illegitimate grandchild of the workman and the parents and grandparents of a workman who is an illegitimate child;
- "mine rescue work" "mine rescue work" includes the repair of the equipment necessary for and the training necessary for such work;
- "outworker" "outworker" means a person to whom articles or materials are given to be made up, cleaned, washed altered, ornamented, finished, repaired or adapted for use or sale at his own

home or at other premises not under the control or management of the person who gave him the articles or materials;

"payroll" in respect of an employer means

"payroll"

- (a) the total remuneration earned in a year, in the course of their employment with the employer in any industry not excepted or exempted from the application of subsection 4 (1), by all workmen employed by the employer in the Territory in the year, except workmen described in paragraphs 9 (1) (c) to 9 (1) (j),

minus

- (b) where the total remuneration earned in the year by any workman whose remuneration is required to be included for the purposes of paragraph (a) exceeds six thousand six hundred dollars, the total of the amounts of such excesses for each workman;

"permanent total disability" includes

"permanent total disability"

- (a) total and permanent loss of the sight of both eyes,
- (b) the loss of both feet at or above the ankle,
- (c) the loss of both hands at or above the wrist,
- (d) the loss of one hand at or above the wrist and one foot at or above the ankle,
- (e) any injury to the spine resulting in permanent and complete paralysis of legs or arms or of one leg and one arm, and
- (f) any injury to the skull resulting in an incurable incapacitating mental disorder;

"prescribed" means prescribed by regulation;

"prescribed"

"referee" means the person appointed as referee pursuant to section 12;

"referee"

"regulation" means a regulation made by the Commissioner;

"regulation"

"remuneration" includes salary, wages, commissions, tips, earnings for overtime, piece work and contract work, bonuses and allowances, the cash equivalent of board and lodging, store certificates, credits and any substitute for money;

"remuneration"

"silicosis" means a fibrotic condition of the lungs of a workman

"silicosis"

- (a) caused by dust containing silica, and
 - (b) evidenced by specific x-ray appearances or by the results of other scientific tests or examinations,
- that has resulted in a substantially lessened capacity for work by the workman;

"workman"

"workman" means an individual who performs services for an employer under an express or implied contract of service or apprenticeship, and includes

- (a) any person engaged in training for mine rescue work and any person who, with the consent of the person charged with the management of a mine or of the person in charge of an authorized mine rescue crew, is doing rescue work at a mine after an accident, explosion or other catastrophe,
- (b) where a contractor enters into a contract with a person engaged in the mining industry for the performance of mining operations for such other person, the employees of the contractor who performs the operations and the contractor while actually performing them,
- (c) a learner, and
- (d) any individual who is deemed by any provision of this Ordinance or by any regulation to be a workman. 1966 (2nd) c. 1, s. 2; 1970 (1st) c. 9, s. 1.

LIABILITY TO INSURE

Employer must insure

3. (1) Except as otherwise provided by this Ordinance or an order made pursuant to subsection (2), every employer to whom this Ordinance applies shall enter into with an insurer and maintain in force a contract of insurance in such form, containing such conditions and for such amount as may be prescribed providing for the payment of compensation

- (a) to workmen of the employer in respect of injury to or disability of such workman caused by an accident, and
- (b) where the workman of the employer dies as a result of an accident, to dependants of the workman,

in the circumstances in which and in the amount that the employer is required by this Ordinance to pay compensation.

Commissioner may exempt employer

(2) The Commissioner may, subject to such conditions and the payment of such fee as he may prescribe by order, exempt from the application of this section, for any period not exceeding twelve months, any employer who has made other arrangements for the protection of his workmen that are considered by the Commissioner to be at least equivalent to those provided by this Ordinance.

Commissioner may insure

(3) The Commissioner may enter into such contracts of insurance as he considers necessary or advisable in order to make provision for the payment of compensation to workmen in the Territory whose employers fail to comply with subsection (1) and to dependants of such workmen.

(4) Where an employer to whom this Ordinance applies, other than an employer who is exempt from the application of this section by an order made pursuant to subsection (2), Liability for cost of compensation

(a) fails to comply with subsection (1), and

(b) fails to pay compensation, as required by section 9, to a workman who is injured, disabled or dies as a result of an accident that occurs during the period that the employer fails to comply with subsection (1) or to a dependant of such workman.

he shall, in addition to any penalty to which he may be liable, pay to the Commissioner an amount equal to

(c) the total of all such compensation that he fails to pay, and

(d) the amount of any assessment that he would have been liable to pay to the Commissioner pursuant to section 54 had he not failed to comply with subsection (1). 1966 (2nd) c. 1, s. 3.

APPLICATION OF ORDINANCE, EXEMPTIONS AND INCLUSIONS

4. (1) This Ordinance applies to employers in respect of employment by them of workmen in all industries, except the industries of farming and ranching and any industry exempted from the application of this section by regulation made pursuant to subsection (2). Application

(2) The Commissioner may make regulations for including the industries of farming and ranching for the purposes of subsection (1) and for exempting any industry from the application of subsection (1). Power of Commissioner

(3) Where by reason of subsection (1) or (2) this Ordinance does not apply to an employer in respect of the employment by him of one or more workmen in an industry, the employer may mail to the Commissioner a written statement that he desires this Ordinance to apply to him in respect of such employment and, after he mails the written statement to the Commissioner, this Ordinance shall be deemed to apply to him in respect of such employment from the day the written statement is mailed. Notice by employer for application of Ordinance

(4) Where by reason of the operation of subsection (3) this Ordinance is deemed to apply to an employer in respect of employment by him of one or more workmen in an industry, it shall cease to apply to him in respect of such employment on January 1st next following the day on which the Commissioner is notified in writing by the employer that he no Notice by employer for withdrawal

longer desires that this Ordinance apply to him in respect of such employment. 1966 (2nd) c. 1, s. 4.

Exemption of
area

5. (1) The Commissioner may by regulation exempt any area of the Territory from the application of this Ordinance. 1966 (2nd) c. 1, s. 5.

Exemption from
application of
Ordinance

6. (1) Where an employer who employs in the Territory on a temporary basis a workman

- (a) who is normally resident outside the Territory, and
- (b) who is protected, in respect of his employment in the Territory on a temporary basis, by a workmen's compensation scheme or other scheme that is considered by the Commissioner to be a scheme that provides protection to workmen and their dependants at least equal to that provided by this Ordinance,

the Commissioner may, on the filing of the statement described in subsection (2) and subject to such conditions and the payment of such fees as he may prescribe, by order, exempt the employer from the provisions of this Ordinance in respect of such workman.

Statement to be
filed

(2) Every employer described in subsection (1) who employs a workman described in subsection (1) and who desires to be exempt from the provisions of this Ordinance in respect of such workman shall file with the Commissioner or with a person designated by the Commissioner for the purpose, a statement in writing setting forth

- (a) the name and address of the employer;
- (b) the name of the workman and the place where he is ordinarily resident;
- (c) the nature and location of the work to be performed in the Territory by the workman;
- (d) the estimated duration of the workman's employment in the Territory and the estimated weekly wages paid in the Territory to workmen for work of the nature of that to be performed in the Territory by the workman; and
- (e) such other information as the Commissioner may require.

Fee payable

(3) An employer who files a statement pursuant to this section in a year shall pay to the Commissioner or to a person designated by him as his agent in that behalf, the prescribed fee on the filing of the first such statement in the year. 1966 (2nd) c. 1, s. 6; 1971 (1st) c. 31, s. 1.

7. (1) Members of the family of an employer who are employed by the employer and living with him shall be deemed not to be workmen, unless they are specifically named in the employer's application for insurance as workmen of the employer and are on his payroll.

Members of family of workman

(2) An employer who is himself insured against injury or death by the terms of a contract of insurance entered into by him as required by this Ordinance shall be deemed to be a workman.

Employer deemed to be workman

(3) Every employer who is deemed by subsection (2) to be a workman shall include in his payroll an amount equal to the lesser of

Amount to be included as employer's remuneration

(a) the amount of his remuneration by way of profit, salary or otherwise from the industry in which he is an employer, or

(b) six thousand six hundred dollars,

and the amount so included shall, for the purposes of this Ordinance and any contract of insurance entered into by him as required by this Ordinance, be deemed to be his annual remuneration. 1966 (2nd) c. 1, s. 7; 1970 (1st) c. 9, s. 2.

8. (1) For the purposes of this section "equipment" includes, trucks, tractors, bulldozers, teams, draglines, power shovels, boats, nets, snowmobiles, barges, canoes, any type of machine or equipment used in connection with the construction and maintenance of roads and such other equipment or apparatus as is prescribed.

Equipment defined

(2) Where a person enters into an arrangement for the supplying of equipment to an employer who is subject to this Ordinance (hereinafter referred to as the "principal"), such person shall be deemed to be a workman of the principal if he

When persons operating equipment deemed workman

(a) operates the equipment himself or hires another person to operate it, and

(b) is paid or to be paid for the services of both equipment and operator,

unless the person supplying the equipment is himself insured pursuant to this Ordinance in respect of accidents resulting from the operation of the equipment, in which case the person operating the equipment shall not be deemed to be a workman of the principal, but, subject to subsection 7(1), shall be deemed to be a workman of the person supplying the equipment.

(3) Where, in any case not coming within subsection (2), a person enters into an arrangement for the performance of

Persons performing work deemed to be workman

work for an employer who is subject to this Ordinance (hereinafter referred to as the "principal"), and, notwithstanding that the arrangement may also provide that he supply materials, equipment or other services, if the person undertaking to perform the work,

- (a) performs the work himself,
- (b) has another person perform the work for him, or
- (c) has another person assist him in the performance of the work,

the person performing and any person assisting in the performance of the work shall be deemed to be a workman of the principal, unless the person undertaking to perform the work is himself insured pursuant to this Ordinance in respect of accidents that occur in the performance of the work, in which case the person performing the work and any person assisting him shall not be deemed to be a workman of the principal, but, subject to subsection 7(1), shall be deemed to be a workman of the person undertaking to perform the work.

Regulation

(4) Notwithstanding subsections (2) and (3), where in the opinion of the Commissioner it is advisable to do so, the Commissioner may by regulation provide that any class of persons who but for this section would not be deemed to be workmen of a principal, shall not be deemed to be workmen of such principal. 1966 (2nd) c. 1, s. 8.

EMPLOYER TO PAY COMPENSATION

Employer to pay compensation

9. (1) Every employer to whom this Ordinance applies shall pay compensation when and in the amount required by this Ordinance

- (a) to a workman of the employer in respect of injury or disability of such workman caused by an accident, or
- (b) where the death of a workman of the employer is caused by an accident, to dependants of the workman, except where the workman is
 - (c) employed in employment of a casual nature otherwise than for the purposes of the employer's industry
 - (d) an outworker,
 - (e) a domestic servant,
 - (f) a member of the legal, medical, accounting, orthopedic, dental or pharmaceutical professions,
 - (g) an executive officer who has notified the Commissioner in writing that he wishes to be exempt from this Ordinance,

- (h) a person eligible to receive benefits under the *Government Employees Compensation Act*, or
- (i) any other prescribed person or a member of any prescribed class of persons.

(2) For the purposes of this section, "executive officer" means a person who is employed by a corporation and who has power to guide or control the policies or purposes of the corporation. Executive officer defined

(3) Workmen who are employees of the Government of the Yukon Territory shall, for the purposes of this Ordinance, be deemed not to be workmen described in paragraph (1)(c), (1)(d), (1)(f) or (1)(h). 1966 (2nd) c. 1, s. 9; 1970 (1st) c. 9, s. 3-4. Employees of Territory

10. (1) Where a workman of an employer to whom this Ordinance applies is injured, disabled or dies as a result of an accident that occurs out of the Territory in circumstances that would entitle the workman or his dependants to compensation under this Ordinance if the accident had occurred in the Territory, the workman or his dependants, as the case may be, are entitled to compensation under this Ordinance if Accident elsewhere than in Territory

- (a) the nature of the employment is such that it is required to be performed both within and without the Territory;
- (b) the employment out of the Territory has immediately followed employment by the same employer within the Territory;
- (c) the employment out of the Territory has lasted less than six months; and
- (d) he or his dependants are not entitled to claim compensation in respect of the injury, disability or death under workmen's compensation laws in force in the place where the accident occurs.

(2) Where a workman of an employer to whom this Ordinance applies is injured, disabled or dies as a result of an accident that occurs out of the Territory and the workman or his dependants, as the case may be, are entitled under workmen's compensation laws in force in the place where the accident occurs to compensation in respect of the injury, disability or death, the workman or a dependent of the workman, as the case may be, shall give notice of the accident and of the circumstances thereof to the workman's employer within six months of the happening of the accident. 1966 (2nd) c. 1, s. 10. Notice of accident

Compensation to workman when not payable

11. (1) A workman who is injured or disabled as a result of an accident is not entitled to compensation if

- (a) the accident is attributable solely to the serious and wilful misconduct of the workman, and death or serious disability does not result from it; or
- (b) the accident occurs as a direct result of enemy action or of action taken in combatting an enemy force or in an attempt to repel a real or apprehended attack by such force.

When disease partly due to employment

(2) Where, except in the case of silicosis, the injury, disability or death of a workman employed by an employer to whom this Ordinance applies

- (a) is due to the contraction of a disease caused by the conditions in a place where an industrial process, trade or occupation is carried on, and
- (b) the accident was caused partly by conditions encountered by the employee while in the employment of the employer and partly by conditions not so encountered,

the employer is required to pay compensation in accordance with this Ordinance only in an amount that is in proportion to the extent to which the accident was due to conditions encountered by the employee while in the employment of the employer.

Presumption of death

(3) Where a workman is found dead at a place where he had a right to be in the course of his employment, his death shall be presumed to be the result of an accident arising out of and in the course of his employment, unless there is evidence sufficient to rebut the presumption.

Presumption that accident occurred in course of employment or out of employment

(4) Unless the contrary is shown, fortuitous event or contraction of a disease referred to in section 2

- (a) that arises out of the employment of a workman shall be presumed to occur in the course of such employment, and
- (b) that occurs in the course of the employment of a workman shall be presumed to arise out of such employment.

(5) Where a workman is disabled as a result of the contraction of a disease caused by the conditions in a place where an industrial process, trade or occupation is carried on, the first day of his disablement shall be deemed to be the date of the accident.

Compensation payable where workman disabled longer than one day

(6) Where a workman involved in an accident is disabled by the accident only on the day thereof, he is entitled to no

compensation other than medical aid, but if he is disabled for more than one day he is entitled to compensation on and from the day following the day of the accident. 1966 (2nd) c. 1, s. 11.

REFEREE

12. (1) The Commissioner may designate a person to act as referee. 1966 (2nd) c. 1, s. 12. Commissioner may appoint referee

13. (1) Except as otherwise provided by this Ordinance, the referee has exclusive jurisdiction to examine, inquire into, hear and determine all matters and questions arising under this Ordinance and referred to him by the Commissioner, and the action or decision of the referee thereon is final and conclusive and is not open to question or review in any court, and no proceedings by or before the referee shall be restrained by injunction, prohibition or other process or proceedings in any court or be removable by *certiorari* or otherwise into any court, nor shall any action be maintained or brought against the referee in respect of any act or decision done or made by him in the honest belief that the same was within his jurisdiction. Powers and jurisdiction of referee

(2) Without restricting the generality of subsection (1), the exclusive jurisdiction of the referee extends to examining, inquiring into, hearing and determining Exclusive jurisdiction of referee

- (a) whether an accident is an accident within the meaning of this Ordinance;
- (b) whether disability exists by reason of an accident and the degree of such disability;
- (c) the duration of disability by reason of an accident;
- (d) whether earning capacity has been impaired by reason of an accident and the degree by which it has been impaired;
- (e) the amount of average earnings;
- (f) whether a person is a member of the family of an employer or workman, as the case may be;
- (g) whether dependency exists;
- (h) whether an industry or any part thereof is within the scope of this Ordinance;
- (i) whether any person or aggregation of persons is an employer within the meaning of this Ordinance;
- (j) whether a person is a workman within the meaning of this Ordinance; and
- (k) whether a workman or a dependant is entitled to compensation under this Ordinance.

Power to reconsider decisions

(3) The referee has power to examine, inquire into and hear any matter that has been dealt with by him previously and on such examination, inquiry or hearing has the power to rescind or vary any decision or order previously made by him.

Referee not bound

(4) The referee is not bound by his own previous rulings or decisions, and all rulings and decisions that he makes shall be upon the merits and justice of the case before him.

Attendance of witnesses

(5) The referee has the same powers as the Court for compelling the attendance of witnesses, examining witnesses under oath and compelling the production and inspection of books, papers, documents and things.

Evidence

(6) The referee may cause depositions of witnesses residing within or without the Territory to be taken before any person appointed by him in a manner similar to that prescribed by the Rules of Court.

Referee may appoint

(7) The referee may appoint any person to inquire into and report upon any matter that the referee has authority under this Ordinance to examine or inquire into and may act upon the report of such person.

Power of person appointed

(8) Any person appointed by the referee pursuant to subsection (7) to inquire into and report upon any matter has the same powers as the referee would have in inquiring into that matter.

Appeals to Commissioner

(9) Every person aggrieved by a decision of the referee, an employer or an insurer, may appeal to the Commissioner who may refer the matter to the referee or back to the referee, as the case may be. 1966 (2nd) c. 1, s. 13.

Issuance of certificate embodying substance of order

14. (1) The referee may in any case where he deems it necessary and shall on the application of an employer, workman or dependant of a workman interested in any order, ruling or decision of the referee, issue a certificate embodying the substance of any such order, ruling or decision.

Enforcement of order by execution

(2) If any amount awarded as compensation by the referee is not paid within sixty days of the day on which the award was made or within sixty days of the day on which the referee award required it to be paid, whichever is applicable, the workman or any dependant of the workman in whose favour the award was made may file the certificate of the referee referred to in subsection (1) with the Clerk of the Court, and such certificate shall be deemed to have the same effect as if it were a judgment of the Court, and execution

against the employer, the insurer or both of them may be issued thereon. 1966 (2nd) c. 1, s. 14.

NO CONTRIBUTION, WAIVER OR ASSIGNMENT BY WORKMAN

15. (1) Except as authorized by this Ordinance, no employer shall

Prohibition of unauthorized deduction of amount from workman's wages

- (a) either directly or indirectly deduct from the remuneration of any workman employed by him any part of the insurance premium that he is or may become liable to pay, or
- (b) require or permit any workman employed by him to indemnify him or to contribute in any manner towards indemnifying him against any liability that he has incurred or may incur under this Ordinance.

(2) An agreement by a workman to waive or give up any benefit or any part thereof to which he or his dependants are or may become entitled under this Ordinance is void.

Waiver of right of compensation invalid

(3) Except as otherwise provided in this Ordinance no amount payable as or on account of compensation

Unassignability, etc. of compensation

- (a) is capable of being assigned, charged or attached, and
- (b) no claim is capable of being set-off against such amount,

without the prior approval of the Commissioner. 1966 (2nd) c. 1, s. 15.

RECOVERY BY EMPLOYER

16. (1) Where an employer pays to any person, in purported compliance with this Ordinance, any amount as or on account of compensation to which that person is not entitled, such amount may be recovered by the employer

Recovery of overpaid compensation

- (a) as a debt due to him by that person,
- (b) by way of set-off against any amount that is or becomes payable to that person as or on account of compensation, or
- (c) partly as in paragraph (a) and partly as in paragraph (b). 1966 (2nd) c. 1, s. 16.

DETERMINATION OF CLAIM FOR COMPENSATION

17. (1) A claim by a workman for compensation in respect of a permanent disability shall be referred to the Commissioner to the referee and shall be determined by the referee.

Permanent disability to be determined by referee

Temporary disability

(2) A claim by a workman for compensation in respect of a temporary disability shall be determined in accordance with this Ordinance by the employer's insurer or by a person designated for the purpose by the Commissioner.

Appeal by workman

(3) If a workman who has been awarded or refused compensation for a temporary total or partial disability by the insurer or other person referred to in subsection (2) notifies the Commissioner that he is dissatisfied with the disposition of his claim, such claim shall be referred by the Commissioner to the referee who shall review it and make such disposition of it as, having regard to the provisions of this Ordinance, he deems just. 1966 (2nd) c. 1, s. 17.

RIGHTS OF ACTION AND SUBROGATION

Rights of action

18. (1) Where a workman or any dependant of the workman is entitled to compensation under this Ordinance in respect of injury to or disability or death of, the workman as a result of an accident, neither the workman, any dependant of the workman nor his legal personal representative has any right of action or claims against

- (a) the employer by whom he was employed at the time of the accident, or
- (b) any workman in the employment of such employer at the time of the accident,

in respect of the injury to or disability or death of the workman, except a claim under this Ordinance for compensation.

Commencement of action

(2) Where a workman is injured, disabled or dies as a result of an accident in circumstances that give rise to a right of action by the workman, any dependant of the workman or his legal personal representative against any person, other than a person described in paragraph (1)(a) or (1)(b), the workman, his dependant or legal personal representative, as the case may be, shall, not later than four months after

- (a) the day of the accident, or
- (b) if the workman dies as a result of the accident, the day on which he dies,

either commence such action or claim compensation, and if he fails to do so, no person shall thereafter be entitled to make any claim under this Ordinance for compensation in respect of the injury, disability or death.

Approval of employer required for settlement

(3) Where the workman, a dependant of the workman or the workman's legal personal representative, as the case may be, commences an action within the time required by subsec-

tion (2), no settlement of the action shall be made without the prior written approval of the terms of the settlement by the employer.

(4) Where the amount received and collected by the workman, a dependant of the workman or his legal personal representative, as the case may be, in an action commenced within the time required by subsection (2), or by a settlement of such action made after the written approval of the terms of the settlement by the employer had been obtained, is less than the amount of compensation that would have been payable pursuant to this Ordinance in respect of the injury, disability or death if, in lieu of commencement of the action, compensation has been claimed within the time required by subsection (2), the employer is liable to pay as compensation only the amount by which the amount so recovered and collected is less than the amount that would have been payable as compensation if, in lieu of commencement of the action, compensation had been claimed within the time required by subsection (2).

Employer to
make up def-
iciency

(5) Where a workman is injured, disabled or dies as a result of an accident in circumstances that give rise to a right of action by the workman, a dependant of the workman or his legal personal representative against any person, other than a person described in paragraph (1)(a) or (1)(b) and the workman or a dependant of the workman, as the case may be, claims compensation pursuant to this Ordinance within the time required by subsection (2), the employer, as of the day on which the claim for compensation is made, is subrogated to any such right of action against any such person and the employer may

Subrogation of
employer

- (a) commence and carry on the action in his own name or in the name of the workman or the workman's dependants, and
- (b) with the prior written approval of the Commissioner, settle the right of action or any action commenced by him pursuant to paragraph (a).

(6) Where by reason of an action or settlement referred to in subsection (5) the employer becomes entitled to and receives an amount that exceeds the capitalized value of all amounts paid or payable as compensation to the workman or his dependants in respect of the injury, disability or death resulting from the accident out of which the cause of action arose, the amount of the excess, minus such costs as the Commissioner may approve, shall be paid to the workman, his dependants or his legal personal representatives as the case may be, upon the furnishing to the employer by the

Workman to
receive excess
over benefits

person or persons to whom it is to be paid of a release of the employer from any claim for additional compensation in respect of the injury, disability or death, except from a claim for additional compensation based on circumstances that were not taken into account in computing the amount of any compensation previously awarded. 1966 (2nd) c. 1, s. 18.

NOTICE OF ACCIDENT

Notice to employer of accident

19. (1) Where a workman, employed by an employer to whom this Ordinance applies, other than a workman described in any of paragraphs 9(1)(c) to 9(1)(j) is injured, disabled or dies as a result of an accident, the workman or, if he dies as a result of the accident, a dependant of the workman shall, as soon as practicable after the accident occurs, give written notice of the accident to the employer of the workman.

Contents of notice

(2) The written notice referred to in subsection (1) shall give the name and address of the workman and of the person giving the notice and shall state the details and consequences of the accident and the place where it occurred.

Failure to give notice a bar to claim unless excused on certain grounds

(3) Failure to give written notice in accordance with subsections (1) and (2) is a bar to any claims for compensation under this Ordinance in respect of the injury to, or disability or death of, the workman resulting from the accident, unless the failure is excused by order of the Commissioner on the ground that

- (a) in his judgment, notice in accordance with subsection (1) could not reasonably have been given in the circumstances;
- (b) the employer or his superintendent or agent in charge of the work where the accident occurred knew at the time it occurred, or should have known, of the injury, disability or death of the workman as a result of the accident; or
- (c) the Commissioner is of the opinion that the claim is a just one and ought not to be barred by this section. 1966 (2nd) c. 1, s. 19.

NOTICES OF CLAIM

Time limit for making claim

20. (1) No compensation is payable in respect of a claim unless notice of the claim is given to the employer against whom the claim is made or to the Commissioner

- (a) in the case of an accident other than an accident due to the contraction of a disease caused by the conditions in a place where an industrial process, trade or occupa-

tion is carried on, by the workman within twelve months of the day of the accident, or where the death of the workman results from the accident, by a dependant of the workman within twelve months of the day of such death ;

- (b) in the case of disability of a workman due to the contraction of a disease (other than silicosis) caused by the conditions in a place where an industrial process, trade or occupation is carried on by the workman within twelve months of the day on which he was last exposed to such conditions in such place prior to becoming disabled or, where the death of the workman results from the disease, by a dependant of the workman within twenty-four months from the day on which the workman was last so exposed ; or
- (c) in the case of disability of a workman due to the contraction of silicosis caused by the conditions in a place where an industrial process, trade or occupation is carried on, by the workman within twelve months of the day on which he is found to have been so disabled or, where the death of the workman results from silicosis, by a dependant of the workman within twelve months from the day of such death.

(2) Notwithstanding subsection 18(2) or subsection (1), where proof that a workman was injured, disabled or died as a result of an accident is filed with the workman's employer or with the Commissioner within three years after the day of the accident, the referee may award compensation to the workman or to dependants of the workman, as the case may be, if

Referee may award compensation where time limit missed

- (a) notice of the accident was given in accordance with section 19 or the failure to give such notice is excused by the Commissioner pursuant to that section, and
- (b) in the opinion of the Commissioner, the claim is a just one and ought not to be barred by this section. 1966 (2nd) c. 1, s. 20 ; 1970 (1st) c. 9, s. 5.

REPORTS BY EMPLOYER AND ATTENDING PHYSICIAN

21. (1) Every employer to whom this Ordinance applies who has knowledge or notice of the occurrence of an accident, or of the allegation of the occurrence of an accident, in which a workman of the employer was injured shall, forthwith after he has such knowledge or notice,

Notice of accident to Commissioner by employer

- (a) forward to the Commissioner and to the employer's insurer written notification of the happening of the accident or of the allegation thereof, and

(b) forward a copy of the notice referred to in paragraph (a) to the workman or, in the event of the workman's death, to a dependant of the workman,

and, if the injured workman or the allegedly injured workman returns to his work or is able to return to his work, the employer shall forward to the Commissioner and to the employer's insurer, within twenty-four hours after the fact of the return or ability to return comes to his knowledge, notification thereof and make such further and other reports respecting the accident or alleged accident respecting the workman as may be required by the Commissioner.

Failure of employer to make report of an offence

(2) Every employer who fails to make a report required by subsection (1), unless the failure is excused by the Commissioner on the ground that the report, for some reason considered by him to be sufficient, could not have been made, is guilty of a separate offence for each day that such failure continues after the expiration of three days following service upon him of a demand by the Commissioner for such report, and is liable upon summary conviction to a penalty not exceeding fifty dollars and costs for each offence, and in default of payment of the penalty to imprisonment for a period not exceeding three months in respect of one offence or six months in the aggregate.

Special investigation of accident by Commissioner

(3) In any case where an employer fails to make a report required by subsection (1), the Commissioner may make a special investigation of the accident and of the facts and circumstances surrounding it and may recover the cost of such investigation from the employer as a debt due to him from the employer. 1966 (2nd) c. 1, s. 21.

Report of accident by attending physician

22. (1) Where a medical practitioner attends a workman who is injured in an accident, the medical practitioner shall forward to the Commissioner, in duplicate,

- (a) a written report within two days after the day of his first attendance on the workman;
- (b) a progress report on the first and fifteenth days of each month while the injured workman is unable to work as a result of his injuries;
- (c) a final report within three days after the day on which he first is of the opinion that the workman is able to resume work; and
- (d) other reports as prescribed and in prescribed form.

Physician to give information, advice and assistance

(2) The medical practitioner referred to in subsection (1) shall, without any charge therefor, give all reasonable and necessary information, advice and assistance to the injured

workman or his dependants with respect to a claim for compensation, including such medical certificates and proofs as may be required in connection with the claim.

(3) Payment by an employer of the account of a medical practitioner for services rendered to a workman who is injured in an accident does not of itself constitute the making of a claim for compensation by the workman or the acceptance by the employer of a claim for compensation by the workman. 1966 (2nd) c. 1, s. 22.

Payments not to constitute making of claim

MEDICAL EXAMINATION

23. (1) A workman who

Medical examination of workman

- (a) claims compensation from an employer, or
- (b) is being paid or is entitled to be paid compensation by an employer,

pursuant to this Ordinance shall, unless the Commissioner otherwise directs, submit himself for examination by a medical practitioner at such time and place as the employer, the employer's insurer or the referee may require.

(2) If a workman does not submit himself for examination as required by subsection (1) or in any way prevents the medical practitioner from making a proper examination,

Failure to submit to examination

- (a) his right to compensation is suspended until a proper examination is made; and
- (b) the condition of the workman found by the medical practitioner when he makes the proper examination referred to in paragraph (a) shall, unless the referee otherwise directs, be deemed to have been the condition of the workman on the day on which he was required pursuant to subsection (1) to submit himself for examination. 1966 (2nd) c. 1, s. 23.

24. (1) Where a workman alleges that,

Nomination of medical practitioner

- (a) he has greater disability than that which he has been found to have,
- (b) he has a right to continuation of compensation beyond the period for which compensation has been awarded,
- (c) an error, relating to his physical condition, was made in some feature or circumstance of the determination of his claim, or
- (d) the medical opinion upon which the determination of his claim was made is erroneous,

and makes a request in writing to the Commissioner for examination pursuant to the provisions of this section, the

Commissioner shall refer the claim to the referee who, after consultation with the workman's attending medical practitioner, if any, may nominate four or more duly qualified medical practitioners.

Two selected

(2) From the medical practitioners nominated pursuant to subsection (1) two shall be selected in the following manner:

- (a) the referee shall notify the workman and the employer's insurer by registered mail of the names and addresses of the medical practitioners nominated and workman and the employer's insurer may each select one medical practitioner from those so nominated such selection to be made and communicated in writing to the referee within thirty days after the mailing of the notice by the referee;
- (b) if either the workman or the employer's insurer fails to make a selection within the time provided or if both select the same medical practitioner, the referee shall select one other medical practitioner from those nominated; or
- (c) if both the workman and the employer's insurer fail to make a selection within the time provided, the referee shall select two medical practitioners from those nominated.

Examination of workman

(3) The two medical practitioners selected pursuant to subsection (2) shall examine the workman and certify to the referee with respect to

- (a) the condition of the workman;
- (b) his fitness for employment;
- (c) if he is unfit for employment, the cause of such unfitness;
- (d) the extent of his temporary or permanent disability by reason of the injury in respect of which he has claimed compensation; and
- (e) such other matters as may in their opinion or in the opinion of the referee be pertinent to the claim.

Selection of third practitioner if disagreement

(4) If after examining the workman the two medical practitioners are unable to agree on the matters in respect of which their certificate is required, they shall select a third medical practitioner from the list of those nominated pursuant to subsection (1), or if they are unable to agree on a third medical practitioner, a third shall be selected by the referee from such list and the three medical practitioners shall examine the workman and the majority of them shall certify to the referee with respect to the matters set out in subsection (3).

(5) A certificate given pursuant to subsection (3) or (4) is conclusive as to the matters certified therein, unless the referee at any time directs otherwise.

Certificate conclusive

(6) The referee may of his own motion or at the request of the employer or the employer's insurer require a workman to be examined under the provisions of this section and, where he so requires, the referee shall

Referee may require examination

- (a) nominate four or more duly qualified medical practitioners, and
- (b) notify, in writing, the workman and the employer's insurer of the medical practitioners so nominated,

and thereafter the provisions of subsections (2) to (4) shall apply in respect of the examination.

(7) A reference in this section to an employer's insurer shall, in any case where the employer has no insurer, be construed as a reference to the employer. 1966 (2nd) c. 1, s. 24.

GENERAL PROVISIONS WITH RESPECT TO COMPENSATION

25. (1) Subject to subsection (2), where a workman to whom compensation is payable leaves Canada, he shall not thereafter be entitled to receive compensation until permission to reside outside of Canada is given by the insurer, the referee or, if the employer has been exempted from the application of section 3, by the employer.

Workman leaving Canada

(2) Where a workman is entitled to periodic payments of compensation and in the opinion of the referee the disability in respect of which the compensation is payable to the workman is likely to be permanent, the workman shall, if the referee so directs, be paid any periodic payments of compensation that accrue to him while he is resident outside of Canada, if he proves, from time to time, in such manner as the referee may require

Idem.

- (a) his identity, and
- (b) continuance of disability.

(3) Where a workman leaves Canada and subsequently claims compensation for a disability allegedly suffered in the course of his employment in the Territory, the employer shall not be liable for compensation unless the workman returns at his own expense to Canada for such medical examination as the employer, the employer's insurer or the referee may require. 1966 (2nd) c. 1, s. 25.

Idem.

26. (1) Where an injured workman

Reduction or suspension of compensation in certain cases

- (a) without prior authorization from the employer (if the employer has been exempted from the application of subsection 3(2)), the employer's insurer or the referee, changes medical practitioners, except where he is referred by the original attending medical practitioner to another medical practitioner,
- (b) persists in unsanitary or other practices injurious to him that tend to imperil or retard his recovery, or
- (c) refuses to submit to such medical or surgical treatment as the employer or the employer's insurer are informed by one or more medical practitioners (who, in the opinion of the referee, are independent of the employer and the employer's insurer) is reasonably essential to his recovery.

the employer or the employer's insurer may, with the consent in writing of the referee, reduce the amount or suspend payment of the compensation to the workman. 1966 (2nd) c. 1, s. 26.

Special surgical
or medical
treatment or
apparatus

27. (1) Where a workman has been injured in circumstances that entitle him to compensation from his employer pursuant to this Ordinance (whether or not compensation has been or is being paid by him by the employer in respect of the injury) and the referee gives written notice to the employer that, in the opinion of the referee,

- (a) it is in the best interests of the injured workman, in order to cure him of or give him relief from the effects of the injury, that he undergo a special surgical operation or other special medical treatment specified in the written notice,
- (b) the workman's injury would be alleviated to an appreciable extent by apparatus, specified in the written notice, usually provided to persons with that injury, or
- (c) other measures or expenditures, specified in the written notice, would aid in getting the injured workman back to work or in lessening or removing any handicap resulting from his injury,

the employer shall, at his own expense and in addition to any other compensation that he has paid or may be required to pay to the workman, make available to the workman the special surgical operation, other special medical treatment or apparatus specified in the written notice or take such other measures or make such other expenditures as are specified in the written notice.

Repair and
renewal of
special
apparatus

(2) Where apparatus provided by an employer to an injured workman pursuant to this section becomes in need of

maintenance, repair, replacement or renewal by reason of ordinary wear and tear or by accident not caused by misconduct of the workman, the employer shall, if the disability in respect of which the apparatus was provided still exists, provide, at his expense, for the maintenance, repair, replacement or renewal of such apparatus.

(3) Where dentures, eye glasses, artificial eyes or limbs or hearing aids of a workman are damaged as a result of an accident, the employer shall, at his expense, provide for the repair or replacement thereof. Replacement or repair of dentures, eye glasses, etc.

(4) Where a workman dies as a result of an injury received by him in an accident and his employer, the employer's insurer or the referee deems an autopsy to be necessary in order to assist in determining the cause of the workman's death, the Commissioner may direct that the autopsy be performed before a specified day, and if any dependant of the workman refuses to permit an autopsy to be performed, the referee may reject any claim for compensation by a dependant pursuant to this Ordinance. Autopsy

(5) Where a workman is confined to a hospital as a result of an injury received in an accident and dies while so confined, the hospital authority shall report the death, immediately after it occurs, to the workman's employer and to the Commissioner. 1966 (2nd), c. 1, s. 27. Report of death by hospital authority

28. (1) Where a workman suffers a permanent disability as a result of an injury received by him in an accident and a referee is of the opinion that occupational retraining of the workman is desirable, the referee may Occupational retraining of workman

- (a) specify the type of retraining to be undertaken by the workman, and
- (b) order the workman's employer to pay
 - (i) the cost of the specified type of retraining,
 - (ii) a living allowance to the workman while he undergoes the retraining,
 - (iii) for room and board for the workman while he undergoes the retraining, and
 - (iv) the cost of any travelling, tuition, books, tools and other equipment relating to the specified type of retraining,
 up to an amount not exceeding five thousand dollars.

(2) In this section, "occupational retraining" means the training of a workman in an occupation other than his occupation at the time he was disabled. 1966 (2nd), c. 1, s. 28. Definition

Review of compensation

29. (1) Where an amount is payable periodically to a workman as compensation, the payment thereof may be reviewed at any time by the referee at the request of the workman, the workman's employer or the employer's insurer, and on the review the referee may

- (a) reduce the amount of compensation payable,
- (b) terminate the payment of compensation, or
- (c) increase the amount of compensation payable to an amount not exceeding the maximum provided by this Ordinance.

Commissioner to notify interested parties

(2) Where a review is requested pursuant to subsection (1), the referee shall forthwith notify the Commissioner of the request, and the Commissioner shall forthwith notify all parties interested in the review, other than the party requesting it, of the request.

Advance payments

(3) Where an employer who makes periodic payments of compensation to a person is of the opinion that the interests or pressing needs of the person so warrant, he may advance to the person any number of such payments not then due as in his opinion the circumstances warrant, and any payment so advanced shall be deemed to be on account of and in satisfaction of the payment so advanced.

No compensation while confined to jail or prison

(4) Where any person to whom compensation is payable pursuant to this Ordinance is committed to a prison, gaol or lockup, compensation ceases to be payable to him for the period of his confinement therein, but the whole or any part of the compensation that would but for this subsection have been payable to such person during the period of his confinement therein, shall, if the Commissioner so directs, be paid to one or more dependants of such person.

Payment where person committed to institution

(5) Where any person to whom compensation is payable pursuant to this Ordinance is committed to an institution, other than a prison, gaol or lockup, the compensation payable to such person while he is confined in the institution may, with the written approval of the Commissioner and in lieu of payment thereof to such person, be paid to one or more of his dependants.

Payment withheld pending receipt of information

(6) An employer who pays compensation to a person or the employer's insurer may, from time to time, require from the person particulars of his place of residence and his mailing address and such other information as may be prescribed, and pending the receipt of such particulars or information, may withhold payment of compensation. 1966 (2nd), c. 1, s. 29.

30. (1) Where compensation is payable by an employer in respect of partial disability of a workman and the disability has not impaired by more than ten percent the work capacity enjoyed by the workman immediately before the accident, the employer may, with the written consent of the Commissioner, pay to the workman a lump sum, in an amount satisfactory to the Commissioner, in lieu of periodic payments of compensation.

Lump sum payment.

(2) Where compensation is payable by an employer in respect of partial or total disability of a workman and the disability has impaired by more than ten percent the work capacity enjoyed by the workman immediately before the accident, periodic payments of compensation may be commuted by the employer to a lump sum payment at the written request of the workman and with the written approval of the Commissioner.

Idem.

(3) Where a lump sum payment has been made to a workman pursuant to this section as a settlement in full of all compensation payable to him in respect of the disability and has been so accepted by him in writing, the workman is not thereafter entitled to be paid any further or other compensation in respect of the disability, but this section does not relieve the employer of an obligation imposed on him by or pursuant to subsection 27(1). 1966 (2nd), c. 1, s. 30.

Idem.

31. (1) Where a workman is entitled to compensation and it appears to the Commissioner

Workman's compensation diverted to spouse and children in certain circumstances

- (a) that the dependant spouse or a dependant child of the workman resident in the Territory is without adequate means of support and is likely to become a public charge or a charge upon private charity, or
- (b) that the dependant spouse or a dependant child of the workman residing out of the Territory is not being supported by the workman and that an order has been made against him by a court of competent jurisdiction for the support or maintenance of the spouse or child or for alimony,

the Commissioner may order that, in lieu of payment of compensation to the workman, payment thereof be made to or for the benefit of such spouse or child. 1966 (2nd), c. 1, s. 31.

DETERMINATION OF AMOUNT OF COMPENSATION FOR DEPENDENTS

32. (1) Where a workman dies as a result of an accident, the compensation and the amount thereof payable by the employer are

Compensation to dependants where workman dies

- (a) the necessary expenses of the burial of the workman, not exceeding three hundred dollars;
- (b) where the accident occurred after January 1, 1956, three hundred dollars to a dependant widow or dependant invalid widower as a contribution to the expenses incurred by such person because of the death of the workman;
- (c) where the death occurred away from the workman's usual place of residence and, in the opinion of the referee, transportation of the workman's body to his usual place of residence is desirable
 - (i) where the workman's usual place of residence is in the Territory, the necessary expenses of such transportation, not exceeding one hundred dollars, or
 - (ii) where the usual place of residence of the workman is outside of the Territory, the necessary expenses of the part of such transportation that takes place in the Territory, not exceeding one hundred dollars;
- (d) to a dependant widow or dependant invalid widower,
 - (i) where the accident occurred on or before the 31st day of December, 1955, a monthly payment of fifty dollars,
 - (ii) where the accident occurred in the period commencing on the 1st day of January, 1956, and ending on the 8th day of July, 1961, a monthly payment of seventy-five dollars,
 - (iii) where the accident occurred on or after the 9th day of July, 1961, a monthly payment of one hundred dollars;
- (e) to a dependant child, other than an invalid child, under the age of sixteen years, where the accident occurred on or before the 8th day of July, 1961, a monthly payment of twenty-five dollars to be continued until the child attains the age of sixteen years or dies, whichever occurs first.
- (f) to a dependant child, other than an invalid child, under the age of eighteen years
 - (i) where the accident occurred on or after the 9th day of July, 1961, as follows:
 - A for the first child, thirty-five dollars;
 - B for the second child, thirty-five dollars; and
 - C for each additional child, twenty dollars
 - (ii) where the accident occurred after the coming into force of this Ordinance, a monthly payment of forty-five dollars to be continued until the child

attains the age of eighteen years or dies, whichever occurs first.

- (g) to a dependant invalid child of any age
 - (i) where the accident occurred on or before the 8th day of July, 1961, a monthly payment of twenty-five dollars,
 - (ii) where the accident occurred in the period on or after the 9th day of July, 1961, a monthly payment of thirty-five dollars,
 - (iii) where the accident occurred after the coming into force of this Ordinance, a monthly payment of forty-five dollars,

the payment to be continued for as long as in the opinion of the referee, it might reasonably have been expected that had the workman lived he would have continued to contribute to the support of the child ;

- (h) to a dependant child who is sixteen or seventeen years of age, such amount as the referee would have ordered pursuant to subsection 34(1) be continued to be paid to the child had he been approaching the age of sixteen years on the day of the workman's death ;
- (i) where the workman leaves no surviving spouse or the surviving spouse of the workman dies or is confined to a prison, gaol, lockup or other institution, to
 - (i) a dependant child less than sixteen years of age,
 - (ii) a dependant child sixteen or seventeen years of age, and
 - (iii) a dependant invalid child of any age,

an amount, not exceeding ten dollars per month but additional to any amount to which the child is entitled by reason of any preceding paragraph, as in the discretion of the referee appears necessary adequately to maintain and support such child ;

- (j) to a dependant widow who is in necessitous circumstances because of illness, such amount, not exceeding fifteen dollars per month but additional to any amount to which the widow is entitled by reason of any preceding paragraph, as to the referee seems appropriate in view of the nature of the illness ; and
- (k) to a dependant child who is ill or to a dependant invalid child, such additional amount, not exceeding fifteen dollars per month but additional to any amount to which the child is entitled by reason of any preceding paragraph, as the referee may deem fit, payable for such period as to the referee seems appropriate in view of the child's condition.

"Existing household" defined

- (d) for the purposes of paragraph (m)
 - (i) "existing household" in respect of a workman who dies means a household wherein all of the children entitled to compensation at the time of his death are, at that time, maintained and cared for by one person who is either the mother or foster mother of each child; and

Person deemed not to be a foster mother

- (ii) a person shall be deemed not to be acting as a foster mother within the meaning of paragraph (m) where none of the children of the deceased workman who constitute his existing household is entitled to compensation.

Compensation payable to foster mother

- (m) where a workman dies leaving no widow or the widow of the workman subsequently dies and
 - (i) it appears to the referee to be desirable to continue the existing household of the deceased workman, and
 - (ii) an aunt, sister or other suitable person acts, in a manner satisfactory to the referee, as foster mother in keeping up the household and maintaining and caring for the children who are entitled to compensation, the aunt, sister or other suitable person acting as foster mother, while so acting, is entitled to compensation as though she were the widow of the deceased workman. 1966 (2nd), c. 1, s. 32.

Compensation payable to a woman dependant on workman

33. (1) Where a workman who dies leaving no dependant wife

- (a) cohabited for the six years immediately preceding his death with a woman who was dependant on him for her maintenance and support, or
- (b) cohabited for the two years immediately preceding his death with a woman who was dependant on him for her maintenance and support and by whom he had one or more children

the compensation to which a dependant wife of the workman would have been entitled under this Ordinance may, in the discretion of the referee be paid to the woman who was dependant on him for maintenance and support until she marries or commences to cohabit with a man.

Idem.

- (2) A person who receives or is eligible to receive compensation pursuant to subsection (1) is not entitled to receive any compensation pursuant to subsection (3) of section 32. 1966 (2nd), c. 1, s. 33.

34. (1) Where a dependant child of a workman who is receiving benefit under paragraph 32(1)(c) is

Extended period of compensation for child attending school

- (a) approaching the age of sixteen years,
- (b) attending an academic, technical or vocational school and making progress at the school satisfactory to the referee, and
- (c) receiving payments of compensation or for whose benefit payments of compensation are being made,

the referee may, in his discretion, order the employer making the payments of compensation to continue making them until the dependant child

- (d) fails to make progress at any such school satisfactory to the referee,
- (e) no longer attends any such school, or
- (f) attains the age of eighteen years,

whichever occurs first, and where the referee so orders, the employer shall continue making the payments of compensation in accordance with the order.

(2) Where a dependant child who is receiving payments pursuant to paragraph 32(1)(f) or 32(1)(h) or subsection (1) or for whose benefit such payments are being made attains the age of eighteen years during a school year, the referee may order the employer making the payments to continue making them to the end of the school year and where the referee so orders, the employer shall continue making the payments of compensation in accordance with the order. 1966 (2nd), c. 1, s. 34; 1970 (1st), c. 9, s. 6.

Idem.

35. (1) Where the only dependents of a workman who dies as a result of an accident are persons other than those to whom compensation is payable pursuant to subsection 32(1), section 33 or 34, any such dependent is entitled to be paid compensation in a reasonable amount, to be determined by the referee, that takes into account the pecuniary loss to the dependant caused by the workman's death, but not so as to exceed

Compensation for other dependants

- (a) where the accident occurred on or before the 31st day of December, 1955,
 - (i) fifty dollars per month for one dependant parent, or
 - (ii) a total of eighty-five dollars per month for two dependant parents; or
- (b) where the accident occurred on or after the 1st day of January, 1956,

- (i) seventy-five dollars per month for one dependant parent, or
- (ii) a total of one hundred dollars per month for two dependant parents. 1966 (2nd), c. 1, s. 35.

Lump sum payable when widow remarries

36. (1) Where a dependant widow who is receiving monthly payments of compensation from an employer remarries, she shall be paid a lump sum of one thousand five hundred dollars by the employer on her remarriage, but she shall not be entitled to any further monthly payments of compensation after the payment for the month in which her remarriage takes place. 1966 (2nd), c. 1, s. 36.

Only one pension payable

37. (1) Where a person is being paid or is entitled to be paid monthly payments of compensation in respect of the death of a workman and subsequently becomes entitled to be paid monthly payments of compensation in respect of the death of another workman, the person shall be paid only the greater of the monthly payments that he is entitled to be paid. 1966 (2nd), c. 1, s. 37.

Dependent not resident in Canada

38. (1) Notwithstanding any provision of this Ordinance except subsection (2), a dependent who is resident outside of Canada is not entitled to any compensation unless by the law of the place in which he resides, dependents of a workman to whom an accident happens in that country would, if resident in Canada, be entitled to compensation under that law; and where dependents would be so entitled, the dependent who is resident out of Canada shall not be paid compensation pursuant to this Ordinance in an amount greater than the amount payable in a like case under the law of the place in which he resides.

Idem.

(2) Where a dependent of a workman who dies as a result of an accident is resident outside of Canada in circumstances that would disentitle him to any compensation pursuant to this Ordinance, the referee may order the workman's employer to make monthly payments or a lump sum payment of compensation, in an amount that the referee considers just but not exceeding the amount to which the dependent would be entitled pursuant to this Ordinance were he resident in Canada, to such dependent and where the referee so orders, the employer shall make monthly payments or a lump sum payment of compensation in accordance with the order. 1966 (2nd), c. 1, s. 38.

PAYMENTS TO OR FOR A CHILD

39. (1) Compensation payable to a child shall be paid to a parent of the child or, if the referee so directs, shall be paid to the child or to another person for the benefit of the child or shall be applied for the benefit of the child in such manner as the referee directs. 1966 (2nd), c. 1, s. 39.

Payments to parent or other person for child

DETERMINATION OF AMOUNT OF COMPENSATION FOR A WORKMAN

40. (1) Where a workman is entitled to compensation because of an accident that causes permanent total disability, he shall be paid each week for so long as he lives an amount, to be determined by the referee, equal to seventy-five per cent of the average weekly earnings of workmen employed at work similar to that at which and in the same occupation as the workman was employed immediately before the accident that caused his permanent total disability. 1966 (2nd), c. 1, s. 40.

Compensation for permanent total disability

41. (1) Where a workman is entitled to compensation because of an accident that causes permanent partial disability, he shall be paid each week for so long as he lives a percentage of the amount to which he would have been entitled under section 40 had he suffered permanent total disability as a result of the accident, equal to the percentage impairment of his earning capacity as estimated by the referee in accordance with subsections (2) and (3).

Compensation for permanent partial disability

(2) For the purposes of subsection (1), "the percentage impairment of earning capacity" of a workman who suffers permanent partial disability as a result of an accident is the extent, estimated by the referee as a percentage after taking into account the nature and degree of the disability, to which the disability has impaired the earning capacity that was enjoyed by the workman immediately before the accident.

Percentage impairment of earning capacity

(3) In estimating the percentage impairment of earning capacity of a workman pursuant to subsection (2), the referee may, where he deems it just, take into account the workman's fitness

Idem.

- (a) to continue doing the work that he was employed to do at the time of the accident that caused his permanent partial disability, and
- (b) to adapt himself to some other suitable occupation.

(4) Notwithstanding this section, where a workman has been

Compensation where earning capacity not impaired

- (a) seriously and permanently injured about the face or head, or
- (b) otherwise seriously and permanently injured, in an accident in a way that does not result in permanent partial disability that impairs his earning capacity, the referee may, if he considers it just and if the workman would have been entitled to compensation had the injury resulted in permanent partial disability that impaired his earning capacity, order the employer of the workman to make periodic payments or a lump sum payment of compensation or both periodic payments and a lump sum payment of compensation to the workman in an amount or amounts that, on the basis of the scale of compensation provided by this Ordinance for workmen, appears to the referee to be reasonable. 1966 (2nd), c. 1, s. 41.

Compensation for temporary total disability

42. (1) Where a workman is entitled to compensation because of an accident that causes temporary total disability the amount of the compensation payable to him shall be an amount, payable weekly as long as the disability exists, equal to seventy-five percent of his average weekly earnings calculated in accordance with section 45. 1966 (2nd), c. 1, s. 42.

Compensation for temporary partial disability

43. (1) Where a workman is entitled to compensation because of an accident that causes temporary partial disability, he shall be paid each week for so long as the disability exists a percentage of the amount to which he would have been entitled under section 42 had he suffered temporary total disability as a result of the accident, equal to the percentage impairment of his earning capacity as estimated by the employer's insurer, a person designated by the Commissioner pursuant to subsection 17(2) for the purpose of determining the claim or the referee, as the case may be.

Idem.

(2) In estimating the percentage impairment of a workman's earning capacity for the purpose of subsection (1), subsections 41(2) and 41(3) shall apply *mutatis mutandis*. 1966 (2nd), c. 1, s. 43.

Compensation where workman injured doing rescue work

44. (1) Notwithstanding any provision of this Ordinance, where a workman is entitled to compensation because of disability that results from an accident that occurs while he is doing rescue work in or on the premises of a mine or other industry to which this Ordinance applies for the purpose of saving human life after an explosion, fire or other catastrophe, the compensation payable to him shall be calculated on the basis of one hundred percent of his average weekly

earnings of the average weekly earnings of workmen employed at work similar to that at which and in the same occupation as he was employed immediately before the accident, as the case may be. 1966 (2nd) c. 1, s. 44.

45. (1) For the purposes of section 42 but subject to section 46, the average weekly earnings of a workman shall be determined on the basis of the earnings of the workman, during the twelve months preceding the accident, from employment by his employer in any industry, except that where

Manner of computation of average weekly earnings

- (a) such earnings are not ascertainable or
- (b) the short period of time that the workman was in the employer's employment before the accident occurred or the casual nature of such employment makes it impracticable to determine the workman's actual average weekly earnings during the preceding twelve months,

his average weekly earnings may be determined on the basis of the earnings, during the twelve months preceding the accident, of a person employed in employment of the same kind and at the same grade as the workman was employed at the time the accident occurred.

(2) Notwithstanding subsection (1), where, in the opinion of the person required to make the determination of a workman's average weekly earnings for the purposes of section 42, it is not possible to do so in accordance with subsection (1), the actual weekly earnings of the workman at the time the accident occurred shall be deemed to be the average weekly earnings of the workman for the purposes of section 42. 1966 (2nd), c. 1, s. 45.

Idem.

46. (1) Where average weekly earnings are required to be determined for the purposes of section 40 to 44, they shall be determined in the manner best calculated to give the actual average rate of earnings per week, but where the average rate of earnings per week so determined would, when projected on an annual basis, result in an annual rate of remuneration that exceeds

Maximum average weekly earnings

- (a) where the accident occurred on or before the 31st day of December, 1955, three thousand dollars,
- (b) where the accident occurred on or after the 1st day of January, 1956, four thousand dollars,
- (c) where the accident occurred on or after the first day of April, 1967, five thousand six hundred dollars, or
- (d) where the accident occurred on or after the first day of April, 1970, six thousand six hundred dollars.

the average weekly earnings shall be deemed to be the rate of remuneration per week that would, when projected on an annual basis, result in that annual rate of remuneration.

Compensation for further or other disability

(2) Where a workman is entitled to be or is being paid compensation for a permanent or temporary disability he is not entitled to compensation in respect of any further or other disability in any amount that would cause his aggregate compensation to exceed the maximum amount payable to a workman for permanent total disability.

Idem.

(3) Where a workman has been paid a lump sum in lieu of periodic payments of compensation that otherwise would have been paid to him, he shall, for the purposes of subsection (2), be deemed to be still in receipt of the periodic payments.

Average weekly earnings where concurrent contracts of service

(4) Where a workman who is injured in an accident was under concurrent contracts of service with two or more employers during any period required to be taken into account in determining his average weekly earnings for the purposes of this Ordinance and, during such period, worked for more than one such employer, his average weekly earnings shall be determined as though his earnings from all such employers during that period were earnings from his employment with the employer from whom he was working at the time of the accident.

Payments for special expenses not to be included

(5) Where an employer customarily pays to a workman an amount in respect of special expenses incurred by the workman by reason of the nature of his employment with the employer, any amount so paid shall not be included as part of the workman's earnings for the purposes of determining the amount of compensation to which the workman is entitled.

Average weekly earnings of a learner

(6) Where the average weekly earnings of a learner are required to be determined for the purposes of sections 40 to 44, he shall be deemed to have been employed at all relevant times as a beginner in the work that he was learning and his average weekly earnings shall be determined on the basis of the earnings of a workman employed as a beginner in such work. 1966 (2nd), c. 1, s. 46; 1970 (1st), c. 9, s. 7.

Minimum compensation for total disability

47. (1) Where a workman is entitled to compensation in respect of permanent or temporary total disability the minimum amount of compensation to which he is entitled is an amount not less than the lesser of

(a) forty dollars per week, or

(b) his average weekly earnings. 1966 (2nd) c. 1, s. 47; 1970 (1st) c. 9, s. 8.

COMMUTATION OF COMPENSATION PAYMENTS

48. (1) Where, in the opinion of the person required by this Ordinance to determine the amount of weekly payments of compensation to a workman or to a dependant of a workman, it is advisable that payments of compensation be made monthly or semi-monthly instead of weekly to the workman or dependant, as the case may be, he may commute the weekly payments to monthly or semi-monthly payments and thereafter the payment of compensation shall be made on the commuted basis. Commutation of weekly payments

(2) Where a workman or a dependant of a workman who is entitled to be paid compensation on a weekly basis is not a resident of or ceases to reside in the Territory, the person required to determine the amount of compensation to be paid weekly to the workman or his dependant, as the case may be, may commute the weekly payment of compensation to such other basis as he deems fit and thereafter payments of compensation to the workman or the dependant, as the case may be, shall be made on the commuted basis. Idem.

(3) Notwithstanding any provision of the Ordinance, where a workman or a dependant of a workman who is entitled to be paid compensation at a rate not less than twenty dollars per month gives written notice to the person required to determine the amount of compensation to be paid to such person that he desires that the compensation payable to him be paid semi-monthly, the compensation payable to him shall be commuted to a semi-monthly basis and thereafter shall be paid to him on that basis. 1966 (2nd), c. 1, s. 48. Idem.

AMOUNT AND PAYMENT OF COMPENSATION TO A WORKMAN UNDER TWENTY-ONE

49. (1) Where a workman who is entitled to be paid compensation is under the age of twenty-one years or under other legal disability, the compensation may be paid to him or may be applied for his benefit in such manner as the person required by this Ordinance to determine the amount of compensation to which the workman is entitled considers to be to his greatest advantage. Payment where workman under legal disability

(2) Where a workman who is entitled to compensation as a result of an accident was under twenty-one years of age at the time of the accident, the amount of compensation to which he is entitled shall, for any period that he is entitled to Amount of compensation when workman becomes twenty-one

compensation after attaining the age of twenty-one years, be determined on the basis of earnings, at the time the accident occurred, of a workman not less than twenty-one years of age employed in employment the same as or similar to the employment of the workman at the time of the accident. 1966 (2nd), c. 1, s. 49.

REDUCTION OF COMPENSATION

Compensation may be reduced by amount of pension or other payment

50. (1) In determining the amount of compensation to which a workman is entitled in respect of a disability, such amount may be reduced by the amount of any pension or other payment in respect of the disability that, apart from this Ordinance, the employer is under a legal obligation to pay to the workman during the period of his disability, if the workman has not made and is not required to make any contribution in respect of the pension or other payment. 1966 (2nd), c. 1, s. 50.

SILICOSIS

Circumstances in which compensation payable for silicosis

51. (1) Notwithstanding any provision of this Ordinance, no workman or dependant of a workman is entitled to compensation in respect of the disability or death of the workman as a result of an accident caused by silicosis unless

- (a) in the opinion of the referee, the workman had, in his employment in the Territory that preceded such disability or death, been exposed to dust containing silica for a period of or for periods totalling not less than two years, or
- (b) it appears to the referee that the workman was not exposed to dust containing silica in any employment of the workman out of the Territory or that his exposure to dust containing silica in employment out of the Territory did not contribute substantially to his disability or death.

Each employer to pay proportion of compensation

(2) Where compensation is payable to a workman or a dependant of a workman in respect of the disability or death of the workman as a result of an accident caused by silicosis and the workman was, before the accident occurred, employed in the Territory by more than one employer in employment that exposed him to dust containing silica, each employer who so employed him shall pay that portion of the compensation that the number of days he was so exposed while employed by the employer bears to the total number of days that he was so exposed while employed in the Territory. 1966 (2nd), c. 1, s. 51.

52. (1) Any provision of this Ordinance limiting or restricting the right of a workman or dependent to compensation for disability or death due to silicosis shall not prevent the payment of a share of the cost of compensation where :

Agreements for cost sharing

- (a) the workman has been exposed to dust containing silica in Canada for a period or periods aggregating two years preceding his disablement, or for any lesser period if he was not exposed to dust containing silica anywhere except in Canada ;
- (b) the workman was free from tuberculosis and silicosis before being first exposed to silica dust in Canada ;
- (c) the disability or death of the workman is due to silicosis resulting from his exposure as a workman to silica dust in Canada ; and
- (d) there is an agreement between the Territory and ;
 - (i) Canada, or
 - (ii) a province or territory of Canada, or
 - (iii) one or more Workmen's Compensation Boards in Canada

whereby the cost of compensation is to be shared equitably among the provinces or territories where the exposure occurred. 1971 (1st), c. 31, s. 2.

MEDICAL AID

53. (1) Where a workman is injured in an accident in circumstances that entitle him to compensation, the employer shall provide for the workman such medical aid as is reasonably necessary at the time of the accident and thereafter such further medical aid as is reasonably necessary for the purposes of diagnosis and treatment of the injury and relief of the workman from the effects thereof.

Provision of medical aid

(2) Any question arising under subsection (1) as to

Idem.

- (a) the reasonable necessity of medical aid,
- (b) the nature of the medical aid required, or
- (c) the sufficiency of the medical aid provided,

shall be determined by the referee, and the referee may give such directions as to the provision of medical aid by the employer as he deems necessary.

(3) Subject to subsection (4), where an employer provides medical aid for an injured workman, the employer is liable to pay any person in respect of the provision of medical aid only such amount as the referee directs to be paid; and no action lies in respect of the provision of the medical aid

No action except against employer

- (a) against the employer for any greater amount than the amount that the referee directs to be paid; or
- (b) against the injured workman or any person other than the employer for any amount.

Hospital services (4) Where an employer provides hospital services for an injured workman, the amount that the employer shall pay in respect of the provision of the hospital services is the amount that the employer and the hospital authority agree upon or, if the employer and the hospital fail to agree, as the referee directs.

Allowance (5) Where a workman who was injured in an accident is being provided by the employer with medical aid at a district, settlement or place other than that in which the workman ordinarily resides and does not receive board and lodging from the employer or at the employer's expense, the employer shall pay to the workman, while he is being provided with medical aid at such district, settlement or other place, an allowance of

- (a) eight dollars per day, or
- (b) such lesser amount as may be determined by the referee at the request of the Commissioner.

Referee may contract for medical aid (6) The referee may contract with medical practitioners, nurses, hospitals and other institutions for medical aid for a workman injured in an accident and, with respect to any such workman who has been rendered helpless by an injury that has resulted in permanent total disability, the referee may make provision for such other treatment or attention for the workman as in his opinion is required; and the employer shall pay any charges or expenses incurred under or in connection with any such contract or in connection with the provision of such other treatment or attention.

Major or elective operations (7) The employer of a workman injured in an accident is not, unless the referee in his discretion directs otherwise, liable to pay for any major or elective operation performed on the workman in respect of the injury, except such an operation when performed in an emergency, unless the approval of the employer, the employer's insurer or the referee (when the matter is referred to him by the Commissioner) is obtained before the operation is performed.

No charge to workman (8) No workman shall be charged or be liable for any amount in respect of medical aid that the workman's employer is required by this Ordinance to provide for the workman or to pay for.

(9) The employer of a workman who is injured in an accident shall, at the employer's expense, immediately provide the workman, if he is in need of it, with transportation to such place as his condition requires him to go, including

Transportation to be provided to workman

- (a) a hospital,
- (b) a medical practitioner, or
- (c) his home.

(10) An employer who fails to provide a workman with transportation as required by subsection (9) is liable, if the Commissioner so orders, to pay for transportation actually procured by or for the injured workman to such place as his condition requires him to go. 1966 (2nd), c. 1, s. 52; 1970 (1st), c. 9, s. 9.

Where employer fails to provide transportation

ASSESSMENT OF INSURED EMPLOYERS

54. (1) Subject to subsections (2) and (3), each employer shall

Assessment of insured employers

(a) annually, on the day that the whole or any part of the annual premium on his contract of insurance entered into under this Ordinance is first due, pay to the Commissioner or to a person authorized by him as his agent in that behalf an assessment of

(i) such percentage, not exceeding one-half of one percent, of his estimated payroll for the twelve month period commencing on that day, as the Commissioner from time to time prescribes, or

(ii) one dollar,
whichever is the greater; and

(b) within thirty days after each anniversary of the day referred to in paragraph (a), submit to the Commissioner in prescribed form a statement of his actual payroll for the twelve month period preceding such anniversary.

Submission of payroll

(2) Notwithstanding paragraph (1)(b), within thirty days after the day on which an employer ceases to be an employer or his contract of insurance expires, whichever first occurs, he shall submit to the Commissioner in prescribed form a statement of his actual payroll for the period from the day mentioned in paragraph (1)(a) to the applicable day mentioned in this subsection.

(3) An employer who has been exempted from the application of subsection 3(1) shall

Assessment of exempted employers

- (a) on the day that the exemption is granted, pay to the Commissioner or to a person designated by him as his agent in that behalf an assessment of
 - (i) such percentage, not exceeding one-half of one per cent of his estimated payroll for the period in respect of which the exemption is granted, as the Commissioner prescribes, or
 - (ii) one dollar,
 whichever is the greater, and
- (b) within thirty days after the day on which he ceases to be exempt from the application of section 3 or the day on which he ceases to be an employer, whichever first occurs, submit to the Commissioner in prescribed form a statement of his actual payroll for the period during which he was exempt.

Change in rate of assessment

(4) A change in the rate of assessment is effective on the first due date for payment of any assessment following the day on which the new rate is prescribed.

Where assessment greater

(5) Where an assessment paid by an employer is greater than the amount payable on the basis of his actual payroll, the amount of the overpayment shall, if it exceeds one dollar, be refunded to him following receipt by the Commissioner of the statement of the employer's actual payroll.

Where assessment less

(6) Where the assessment paid by an employer is less than the amount payable on the basis of his actual payroll, he shall pay the amount of the difference, if it exceeds one dollar, to the Commissioner at the time he submits the statement of his actual payroll.

Agent

(7) The Commissioner may designate any person as his agent to collect any assessment payable under this section, and such agent has full power to institute and carry on, in his own name, all necessary legal proceedings to recover any such assessment for the Commissioner.

Payroll

(8) Every employer shall furnish to the Commissioner such information regarding his payroll as the Commissioner may from time to time require.

Payments

(9) All moneys paid to the Commissioner or to a person designated by him as his agent, shall be paid into and form part of the Yukon Consolidated Revenue Fund. 1966 (2nd), c. 1, s. 53.

PAYMENTS OUT OF YUKON CONSOLIDATED REVENUE FUND

55. (1) From and out of the moneys issued and advanced out of the Yukon Consolidated Revenue Fund the following may be paid:

Payments out of Y.C.R.F.

- (a) the fees and expenses of referees.
- (b) any sum that an employer is entitled to be refunded under section 54.
- (c) any payments for premiums in respect of contracts of insurance entered into by the Commissioner pursuant to subsection 3(3) or by or on behalf of the Government of the Yukon Territory pursuant to subsection 3(1),
- (d) the costs of administration and enforcement of this Ordinance and the regulations, and
- (e) such part of the moneys collected by assessment in excess of all such fees, expenses, refunds, payments and costs as the Commissioner may determine. 1966 (2nd), c. 1, s. 54.

GENERAL PROVISIONS

56. (1) Where an amount awarded as compensation by a referee is not paid promptly after it becomes due, such amount may be paid to the person entitled thereto from and out of the moneys issued and advanced out of the Yukon Consolidated Revenue Fund, and any amount so paid is a debt due to the Commissioner and may be recovered by him in any court of competent jurisdiction from the person who failed to pay it promptly. 1966 (2nd), c. 1, s. 55.

If award not paid promptly

57. (1) Every employer shall keep posted in his premises at a place readily accessible to his workmen a poster provided by the Commissioner setting out in concise form the provisions of this Ordinance and the procedure to be followed in reporting accidents and making claims. 1966 (2nd), c. 1, s. 56.

Duty to post details of Ordinance

58. (1) Every employer's insurer, or other person designated by the Commissioner pursuant to subsection 17(2) who determines a claim by a workman for temporary disability shall give the workman written notice of the disposition of his claim and, in the written notice, shall draw the attention of the workman to his right under subsection 17(3) to have the disposition of his claim reviewed by the referee. 1966 (2nd), c. 1, s. 57.

Notice of disposition of claim and right to review

59. (1) Where any person who has been committed to a prison, gaol or lock-up becomes entitled to workmen's compensation payments because of a work release program or

Work release programme

other circumstances, the Commissioner may direct that during the period of confinement the compensation be payable to one or more dependents of such person or that the compensation be payable to the Territory. 1971 (1st), c. 31, s. 3.

OFFENCE

Certificate as prima facie proof of facts alleged therein

60. (1) In any prosecution of a person for failing to comply with the requirements of subsection 3(1), a certificate purporting to be signed by the Commissioner alleging that such person has failed to enter into and maintain in force a contract of insurance as required by subsection 3(1) shall be received in evidence as *prima facie* proof of the facts alleged therein. 1966 (2nd), c. 1, s. 58.

Penalty

61. (1) Every employer who violates any provision of this Ordinance or any regulation made thereunder for which no other penalty is provided commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars. 1966 (2nd), c. 1, s. 59.

62. (1) Where an employer has been convicted of an offence under this Ordinance the convicting court shall, in addition to any other penalty, order the employer to comply with the requirement to do anything or furnish any statement or report, the failure to do which or to furnish which, constituted the offence for which he was convicted.

(2) An employer who refuses or neglects to comply with an order of a convicting court made under this section commits an offence and is liable upon summary conviction to a fine not exceeding fifty dollars for each day during which such refusal or failure continues. 1970 (1st), c. 9, s. 10.

Offence by officers

63. (1) Where an offence under this Ordinance is committed by a corporation with the consent or connivance of any director, manager, secretary or of any official of the corporation in charge of a project he, as well as the corporation, commits an offence and is liable on summary conviction to a sentence not exceeding six months or a fine not exceeding one thousand dollars or to both fine and imprisonment.

Officer may be summoned

(2) Where a complaint is laid against a person who is a corporation a summons may be issued requiring an officer, director, secretary or partner named therein to appear in court to answer the charge on behalf of the corporation and to attend in court from day to day until the trial or hearing has been completed. 1971 (1st), c. 31, s. 4.

REGULATIONS

64. (1) The Commissioner may make Regulations providing for the carrying into effect of the purposes and provisions of this Ordinance and, without limiting the generality of the foregoing, may make regulations Regulations

- (a) prescribing anything that by this Ordinance is to be prescribed by regulation ;
- (b) prescribing such forms as he deems necessary ; and
- (c) with respect to the prevention of accidents and industrial diseases. 1966 (2nd), c. 1, s. 60.

SCHEDULE B.

ORDINANCES AND PORTIONS OF ORDINANCES REPEALED

Chapter	Year and Session	Title	Extent of Repeal
3	1959(1st)	An Ordinance to Amend the Game Ordinance.....	The whole
4	1959(1st)	An Ordinance to Amend the Insurance Ordinance.....	The whole except ss. 3-4
5	1959(1st)	An Ordinance to Amend the Interpretation Ordinance....	The whole
8	1959(1st)	An Ordinance to Amend the Public Health Ordinance....	The whole except s. 3
4	1959(2nd)	An Ordinance to Amend the Game Ordinance.....	The whole
2	1960(1st)	Hospital Insurance Services Ordinance, Yukon.....	The whole
7	1960(1st)	An Ordinance to Amend the Business Licence Ordinance...	The whole
3	1960(3rd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole except s. 17
4	1960(3rd)	An Ordinance to Amend the Elections Ordinance.....	The whole except s. 5
5	1960(3rd)	An Ordinance to Amend the Judicature Ordinance.....	The whole
3	1961(1st)	An Ordinance to Amend the Business Licence Ordinance...	The whole
5	1961(1st)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
7	1961(1st)	An Ordinance to Amend the Judicature Ordinance.....	The whole
8	1961(1st)	An Ordinance to Amend the Engineering Profession Ordinance.....	The whole
9	1961(1st)	An Ordinance to Amend the Public Health Ordinance....	The whole
3	1961(2nd)	Housing Ordinance, Yukon.....	The whole except s. 6
7	1961(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
10	1961(2nd)	An Ordinance to Amend the Game Ordinance.....	The whole
11	1961(2nd)	An Ordinance to Amend the Fur Export Ordinance.....	The whole
7	1962(1st)	School Ordinance.....	The whole except s. 100
9	1962(1st)	Dependants' Relief Ordinance.....	The whole
11	1962(1st)	Cancer Diagnosis & Treatment Ordinance.....	The whole
12	1962(1st)	An Ordinance to Amend the Yukon Housing Ordinance...	The whole
13	1962(1st)	An Ordinance to Amend the Companies Ordinance.....	The whole
14	1962(1st)	An Ordinance to Amend the Legal Profession Ordinance...	The whole
16	1962(1st)	An Ordinance to Amend the Disabled Persons' Allowance Ordinance.....	The whole except s. 3
17	1962(1st)	An Ordinance to Amend the Old Age Assistance & Blind Persons' Allowance Ordinance.....	The whole except s. 3
19	1962(1st)	An Ordinance to Amend the Intestate Succession Ordinance	The whole
21	1962(1st)	An Ordinance to Amend the Motor Vehicles Ordinance....	The whole except s. 2
1	1962(5th)	Fitness & Amateur Sport Agreement Ordinance.....	The whole
2	1962(5th)	Cornea Transplant Ordinance.....	The whole
3	1962(5th)	Fire Prevention Ordinance.....	The whole except s. 25
4	1962(5th)	Survivorship Ordinance.....	The whole
5	1962(5th)	Presumption of Death Ordinance.....	The whole
6	1962(5th)	Variation of Trusts Ordinance.....	The whole
7	1962(5th)	An Ordinance to Amend the Insurance Ordinance.....	The whole
8	1962(5th)	An Ordinance to Amend the Motor Vehicle Ordinances....	The whole except s.3
12	1962(5th)	An Ordinance to Amend the Public Health Ordinance....	The whole except s.1
3	1963(1st)	Corporation Securities Registration Ordinance.....	The whole
4	1963(1st)	Superannuation Ordinance, Territorial Employees'.....	The whole except ss.7-8
7	1963(1st)	An Ordinance to Amend the Engineering Profession Ordinance.....	The whole
8	1963(1st)	An Ordinance to Amend the Low Cost Housing Ordinance	The whole except s.1
10	1963(1st)	An Ordinance to Amend the Financial Administration Ordinance.....	The whole

Schedule B.

Chapter	Year and Session	Title	Extent of Repeal
11	1963(1st)	An Ordinance to Amend the Forest Protection Ordinance.	The whole except s.3
1	1963(2nd)	Recording of Evidence by Sound Apparatus Ordinance...	The whole
2	1963(2nd)	Wages Recovery Ordinance.....	The whole except s.24
3	1963(2nd)	Fair Practices Ordinance.....	The whole
5	1963(2nd)	An Ordinance to Amend the Insurance Ordinance.....	The whole
6	1963(2nd)	An Ordinance to Amend the Corporation Securities Registration Ordinance.....	The whole
7	1963(2nd)	An Ordinance to Amend the Medical Profession Ordinance	The whole
8	1963(2nd)	An Ordinance to Amend the Area Development Ordinance	The whole
9	1963(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole except s.5
10	1963(2nd)	An Ordinance to Amend the Curfew Ordinance.....	The whole
1	1964(1st)	Corporation of the City of Dawson Ordinance.....	The whole except s.2
2	1964(1st)	An Ordinance to Amend the Yukon Housing Ordinance..	The whole
3	1964(1st)	An Ordinance to Amend the Old Age Assistance & Blind Persons' Allowance Ordinance.....	The whole except s.3
4	1964(1st)	An Ordinance to Amend the Disabled Persons' Allowance Ordinance.....	The whole except s.3
5	1964(1st)	An Ordinance to Amend the Bills of Sale Ordinance.....	The whole
7	1964(1st)	An Ordinance to Amend the School Ordinance.....	The whole
9	1964(1st)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
10	1964(1st)	An Ordinance to Amend the Game Ordinance.....	The whole
11	1964(1st)	An Ordinance to Amend the Medical Profession Ordinance	The whole
1	1964(2nd)	Apprentice Training Ordinance.....	The whole
3	1964(2nd)	An Ordinance to Amend the Vital Statistics Ordinance..	The whole except ss.4-5
7	1964(2nd)	An Ordinance to Amend the Financial Administration Ordinance.....	The whole
8	1964(2nd)	An Ordinance to Amend the Judicature Ordinance.....	The whole
9	1964(2nd)	An Ordinance to Amend the Conditional Sales Ordinance	The whole
10	1964(2nd)	An Ordinance to Amend the Dental Profession Ordinance	The whole
11	1964(2nd)	An Ordinance to Amend the Companies Ordinance.....	The whole
1	1965(1st)	Legal Profession Accounts Ordinance.....	The whole
2	1965(1st)	An Ordinance to Amend the Engineering Profession Ordinance.....	The whole
3	1965(1st)	An Ordinance to Amend the School Ordinance.....	The whole
5	1965(1st)	An Ordinance to Amend the Game Ordinance.....	The whole
1	1965(2nd)	Local Improvement District Ordinance.....	The whole
2	1965(2nd)	An Ordinance to Amend the Credit Unions Ordinance....	The whole
4	1965(2nd)	An Ordinance to Amend the Evidence Ordinance.....	The whole
5	1965(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
6	1965(2nd)	An Ordinance to Amend the Garnishee Ordinance.....	The whole
7	1965(2nd)	An Ordinance to Amend the Intestate Succession Ordinance	The whole
1	1966(1st)	Immunity of Members Ordinance.....	The whole
5	1966(1st)	An Ordinance to Amend the School Ordinance.....	The whole
7	1966(1st)	An Ordinance to Amend the Low Cost Housing Ordinance	The whole
8	1966(1st)	An Ordinance to Amend the Elections Ordinance.....	The whole
9	1966(1st)	An Ordinance to Amend the Yukon Housing Ordinance...	The whole
10	1966(1st)	An Ordinance to Amend the Companies Ordinance.....	The whole
1	1966(2nd)	Workmen's Compensation Ordinance.....	The whole except ss.61-62
2	1966(2nd)	Goals Ordinance.....	The whole
3	1966(2nd)	Civil Emergency Measures Ordinance.....	The whole
5	1966(2nd)	An Ordinance to Amend the Companies Ordinance.....	The whole
9	1966(2nd)	An Ordinance to Amend the School Ordinance.....	The whole
10	1966(2nd)	An Ordinance to Amend the Corners Ordinance.....	The whole
11	1966(2nd)	An Ordinance to Amend the Low Cost Housing Ordinance	The whole
12	1966(2nd)	An Ordinance to Amend the Fire Prevention Ordinance...	The whole
13	1966(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole except ss.1-2,4
14	1966(2nd)	An Ordinance to Amend the Vital Statistics Ordinance...	The whole
15	1966(2nd)	An Ordinance to Amend the Recording of Evidence by Sound Apparatus Ordinance.....	The whole
1	1967(1st)	Cemeteries & Burial Sites Ordinance.....	The whole except s.10
2	1967(1st)	Electrical Protection Ordinance.....	The whole except s.17

Schedule B.

Chapter	Year and Session	Title	Extent of Repeal
3	1967(1st)	Public Service Ordinance.....	The whole except ss.37-39
5	1967(1st)	Students' Grants Ordinance.....	The whole except s.7
6	1967(1st)	Housing Development Ordinance.....	The whole
7	1967(1st)	An Ordinance to Amend the Societies Ordinance.....	The whole
9	1967(1st)	An Ordinance to Amend the Financial Administration Ordinance.....	The whole
11	1967(1st)	An Ordinance to Amend the Game Ordinance.....	The whole except ss.1 9)
12	1967(1st)	An Ordinance to Amend the School Ordinance.....	The whole
13	1967(1st)	An Ordinance to Amend the Yukon Housing Ordinance...	The whole
14	1967(1st)	An Ordinance to Amend the Low Cost Housing Ordinance	The whole
15	1967(1st)	An Ordinance to Amend the Insurance Ordinance.....	The whole
2	1967(2nd)	Brands Ordinance.....	The whole except s.21
3	1967(2nd)	Flag Ordinance.....	The whole
4	1967(2nd)	Regulations Ordinance.....	The whole except ss.10-11
5	1967(2nd)	Social Assistance Ordinance.....	The whole except s.16
6	1967(2nd)	An Ordinance to Amend the Evidence Ordinance.....	The whole
7	1967(2nd)	An Ordinance to Amend the Fire Prevention Ordinance...	The whole
8	1967(2nd)	An Ordinance to Amend the Interpretation Ordinance.....	The whole
9	1967(2nd)	An Ordinance to Amend the Legal Profession Ordinance...	The whole
11	1967(2nd)	An Ordinance to Amend the Local Improvement District Ordinance.....	The whole
12	1967(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
13	1967(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
15	1967(2nd)	An Ordinance to Amend the School Ordinance.....	The whole
3	1968(1st)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
1	1968(2nd)	Labour Standards Ordinance.....	The whole except ss.50-53
2	1968(2nd)	Perpetuities Ordinance.....	The whole
3	1968(2nd)	An Ordinance to Amend the Evidence Ordinance.....	The whole
5	1968(2nd)	An Ordinance to Amend the Fur Export Ordinance.....	The whole
6	1968(2nd)	An Ordinance to Amend the Judicature Ordinance.....	The whole
7	1968(2nd)	An Ordinance to Amend the Jury Ordinance.....	The whole
9	1968(2nd)	An Ordinance to Amend the Mining Safety Ordinance.....	The whole
10	1968(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
1	1968(3rd)	Lands Ordinance, Yukon.....	The whole except s.7
1	1968(4th)	Condominium Ordinance.....	The whole
2	1968(4th)	Fuel Oil Tax Ordinance.....	The whole except s.18
3	1968(4th)	Historic Sites & Monuments Ordinance.....	The whole
4	1968(4th)	Hotels & Tourist Establishments Ordinance.....	The whole except s.28
5	1968(4th)	Notaries Ordinance.....	The whole
6	1968(4th)	Rehabilitation Services Ordinance.....	The whole
9	1968(4th)	An Ordinance to Amend the Gaols Ordinance.....	The whole
10	1968(4th)	An Ordinance to Amend the Interpretation Ordinance.....	The whole
11	1968(4th)	An Ordinance to Amend the Judicature Ordinance.....	The whole
12	1968(4th)	An Ordinance to Amend the Legal Profession Ordinance...	The whole except ss.4,10
14	1968(4th)	An Ordinance to Amend the Mining Safety Ordinance....	The whole
15	1968(4th)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole except s.3
3	1969(1st)	Plebiscite Ordinance.....	The whole
2	1969(2nd)	An Ordinance to Amend the Garnishee Ordinance.....	The whole
3	1969(2nd)	An Ordinance to Amend the Wills Ordinance.....	The whole
4	1969(2nd)	An Ordinance to Amend the Civil Emergency Measures Ordinance.....	The whole
5	1969(2nd)	An Ordinance to Amend the Rehabilitation Services Ordinance.....	The whole
6	1969(2nd)	An Ordinance to Amend the Labour Standards Ordinance	The whole
7	1969(2nd)	An Ordinance to Amend the Judicature Ordinance.....	The whole
8	1969(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance...	The whole
9	1969(2nd)	An Ordinance to Amend the Game Ordinance.....	The whole
10	1969(2nd)	An Ordinance to Amend the Fuel Oil Tax Ordinance.....	The whole
1	1969(3rd)	An Ordinance to Amend the Fuel Oil Tax Ordinance.....	The whole
2	1969(3rd)	An Ordinance to Amend the Insurance Ordinance.....	The whole
3	1969(3rd)	An Ordinance to Amend the Judicature Ordinance.....	The whole

Schedule B.

Chapter	Year and Session	Title	Extent of Repeal
4	1969(3rd)	An Ordinance to Amend the Forest Protection Ordinance.	The whole
5	1969(3rd)	An Ordinance to Amend the Social Assistance Ordinance.	The whole
1	1970(1st)	Co-operative Associations Ordinance.....	The whole
2	1970(1st)	Child Welfare Ordinance.....	The whole except s.96
3	1970(1st)	Liquor Ordinance.....	The whole except ss. 104-105
4	1970(1st)	An Ordinance to Amend the Labour Standards Ordinance	The whole except s. 3
5	1970(1st)	An Ordinance to Amend the Motor Vehicles Ordinance. . .	The whole
7	1970(1st)	An Ordinance to Amend the Reciprocal Enforcement of Maintenance Orders Ordinance.....	The whole
9	1970(1st)	An Ordinance to Amend the Workmen's Compensation Ordinance.....	The whole except s. 4
1	1970(2nd)	Public Service Staff Relations Ordinance, Yukon.....	The whole except s. 104
4	1970(2nd)	An Ordinance to Amend the Credit Unions Ordinance. . . .	The whole
5	1970(2nd)	An Ordinance to Amend the Game Ordinance.....	The whole
6	1970(2nd)	An Ordinance to Amend the Low Cost Housing Ordinance	The whole
7	1970(2nd)	An Ordinance to Amend the Motor Vehicles Ordinance. . .	The whole
8	1970(2nd)	An Ordinance to Amend the Public Service Ordinance....	The whole except ss. 11-13
1	1970(3rd)	Securities Ordinance.....	The whole except s. 52
2	1970(3rd)	Village of Faro Ordinance.....	The whole except s. 14
5	1970(3rd)	An Ordinance to Amend the Elections Ordinance.....	The whole
6	1970(3rd)	An Ordinance to Amend the Legal Profession Ordinance..	The whole
7	1970(3rd)	An Ordinance to Amend the Local Improvement District Ordinance.....	The whole
2	1971(1st)	Archives Ordinance.....	The whole
3	1971(1st)	Consumers' Protection Ordinance.....	The whole except s. 90
4	1971(1st)	Court of Appeal Ordinance.....	The whole except s. 17
5	1971(1st)	Elevator & Fixed Conveyances Ordinance.....	The whole except s. 23
6	1971(1st)	Expropriation Ordinance.....	The whole
8	1971(1st)	Justice of the Peace Ordinance.....	The whole except s. 11
10	1971(1st)	Magistrate's Court Ordinance.....	The whole except s. 38
11	1971(1st)	Mental Health Ordinance.....	The whole except s. 10
12	1971(1st)	Territorial Court Ordinance.....	The whole except s. 14
13	1971(1st)	Transport Public Utilities Ordinance.....	The whole except s. 55
15	1971(1st)	Health Care Insurance Plan Ordinance, Yukon.....	The whole except s. 34
17	1971(1st)	An Ordinance to Amend the Companies Ordinance.....	The whole
18	1971(1st)	An Ordinance to Amend the Elections Ordinance.....	The whole
19	1971(1st)	An Ordinance to Amend the Evidence Ordinance.....	The whole
20	1971(1st)	An Ordinance to Amend Certain Ordinances Respecting Fees & Licences.....	The whole except ss. 3(5) (6)(8), 6(2), 7(2), 8(1), 9(4) (7), 21(3)(6), 23(1), 25(3)
21	1971(1st)	An Ordinance to Amend the Fuel Oil Tax Ordinance.....	The whole
22	1971(1st)	An Ordinance to Amend the Fur Export Ordinance.....	The whole except s. 3
23	1971(1st)	An Ordinance to Amend the Game Ordinance.....	The whole except ss. 23-24
25	1971(1st)	An Ordinance to Amend the Public Health Ordinance....	The whole
27	1971(1st)	An Ordinance to Amend the Liquor Ordinance.....	The whole
29	1971(1st)	An Ordinance to Amend the Motor Vehicles Ordinance..	The whole
31	1971(1st)	An Ordinance to Amend the Workmen's Compensation Ordinance.....	The whole

Schedule B.

Chapter	Year and Session	Title	Extent of Repeal
3	1971(3rd)	Change of Name, Territorial Court, Ordinance.....	The whole except s. 3
4	1971(3rd)	Trade Schools Regulation Ordinance.....	The whole except s. 13
5	1971(3rd)	An Ordinance to Amend the Game Ordinance.....	The whole
6	1971(3rd)	An Ordinance to Amend the Labour Standards Ordinance	The whole
7	1971(3rd)	An Ordinance to Amend the Magistrate's Court Ordinance	The whole
8	1971(3rd)	An Ordinance to Amend the Mining Safety Ordinance....	The whole
9	1971(3rd)	An Ordinance to Amend the Reciprocal Enforcement of Maintenance Orders Ordinance.....	The whole
10	1971(3rd)	An Ordinance to Amend the Securities Ordinance.....	The whole

APPENDIX

APPENDIX

LIST OF ORDINANCES AND PARTS OF ORDINANCES NOT REPEALED AND NOT CONSOLIDATED.

No.	Title of Ordinance.	Portion of Ordinance.
ORDINANCES OF THE YUKON COUNCIL.		
1899.		
1	An Ordinance to incorporate The Svendsgaard Drug and Hospital Company, Limited.....	The whole.
3	An Ordinance to validate certain proceedings in the Courts of the Yukon Territory.....	The whole.
10	An Ordinance for granting to the Commissioner certain sums of Money to defray the expenses of the Public Service of Yukon Territory.....	The whole.
12	An Ordinance to incorporate The Yukon Overland Express and Transportation Company.....	The whole.
16	An Ordinance concerning the Water Supply of Dawson.....	The whole.
18	An Ordinance respecting the Grand Forks Water Association.....	The whole.
20	An Ordinance respecting The Yukon Hygeia Water Supply Company..	The whole.
25	An Ordinance to interpret Ordinance No. 16 of 1899.....	The whole.
27	An Ordinance respecting Hunker Creek Ferry.....	The whole.
28	An Ordinance respecting the Klondike Ferry.....	The whole.
35	An Ordinance to confirm, ratify and legalize certain transfers of Real Property made by J. E. Hansen as the attorney in fact of James N. Wilson, executor, in the Yukon Territory of the last Will and Testament of Arthur Harper deceased.....	The whole.
46	An Ordinance respecting the Dawson City and Yukon Territory, Public Business Register and Business Directory.....	The whole.
47	An Ordinance to provide for the building of a wagon road in the Yukon Territory.....	The whole.
49	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory....	The whole.
1900.		
5	An Ordinance respecting the Census.....	The whole.
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
8	An Ordinance to incorporate the Dawson Telephone and Electric Company, Limited.....	The whole.
14	An Ordinance to incorporate the Dawson City Water and Power Company Limited.....	The whole.
26	An Ordinance respecting the Territorial Court.....	The whole.
28	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
29	An Ordinance respecting the Dawson Electric Light and Power Company Limited.....	The whole.
30	An Ordinance respecting Taxation, Dawson.....	The whole.
35	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
40	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
41	An Ordinance amending the Ordinance incorporating the Dawson City Water and Power Company Limited.....	The whole.
1901.		
6	An Ordinance to incorporate the Hadley Stage Line Limited.....	The whole.
7	An Ordinance to incorporate the Dawson Transfer and Storage Company Limited.....	The whole.
8	An Ordinance entitled additional Ordinance respecting the Preservation of Game in the Yukon Territory.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
<i>1901—Concluded.</i>		
12	An Ordinance to enable the Court of Revision of the Town of Dawson to re-open, hear and determine Appeals from assessments for the year 1900.....	The whole.
13	An Ordinance respecting Taxation for 1900 (Dawson).....	The whole.
16	An Ordinance to incorporate the Yukon-Klondike General Trusts Company Limited.....	The whole.
19	An Ordinance to amend the Ordinance to incorporate the Dawson City Water and Power Company Limited.....	The whole.
27	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
39	An Ordinance to increase the capital stock of the Hadley Stage Line Limited.....	The whole.
43	An Ordinance empowering the Northern Commercial Company, to lay pipes, etc., in the Town of Dawson.....	The whole.
<i>1902.</i>		
5	An Ordinance to repeal certain Ordinances of the Yukon Council.....	The whole.
10	An Ordinance to amend the Dawson City Charter.....	The whole.
11	An Ordinance to confirm By-Law No. 12 of the City of Dawson.....	The whole.
15	An Ordinance to incorporate The Dawson Amateur Athletic Association Limited.....	The whole.
17	An Ordinance to amend the Dawson City Charter.....	The whole.
21	An Ordinance to authorize the Consolidation of the Ordinances.....	The whole.
Chapter.	<i>CONSOLIDATED ORDINANCES 1902.</i>	
68	An Ordinance respecting the Limits of Dawson and Klondike City....	The whole.
78	An Ordinance to prevent the profanation of the Lord's Day.....	The whole.
<i>ORDINANCES OF THE YUKON COUNCIL.</i>		
<i>1903.</i>		
1	An Ordinance to amend the Ordinance Incorporating The Dawson Amateur Athletic Association Limited.....	The whole.
7	An Ordinance for granting to the Commissioner certain sums of money for the Development of Mining in the Yukon Territory.....	The whole.
13	An Ordinance to incorporate The North Star Athletic Association Limited.....	The whole.
17	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	The whole.
20	An Ordinance to provide for the Management of Free Public Libraries in Dawson.....	The whole.
21	An Ordinance to incorporate The Zero Club Limited.....	The whole.
<i>1904.</i>		
1	An Ordinance for granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	The whole.
9	An Ordinance to validate the Town of Bonanza Assessment for 1904....	The whole.
19	An Ordinance granting to the Commissioner certain sums of money to defray the expense of the Public Service.....	The whole.
<i>1905.</i>		
6	An Ordinance respecting the By-Laws of the City of Dawson.....	The whole.
7	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
9	An Ordinance respecting The Town of Bonanza.....	The whole.
<i>1906.</i>		
9	An Ordinance closing portions of Fifth Avenue and Portions of Lambert and Elliott Streets in Whitehorse from Public use.....	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the Expenses of the Public Service.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1907.		
1	An Ordinance to amend Chapter 20 of 1903 relating to Free Public Libraries in Dawson.....	The whole.
14	An Ordinance granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
1908.		
4	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
1909.		
9	An Ordinance for granting to the Commissioners certain sums of money to defray the Expense of the Public Service.....	The whole.
1910.		
7	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
1911.		
5	An Ordinance to amend Chapter 16 of 1904.....	Sec. 3.
7	An Ordinance to amend the Assessment Ordinance.....	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
10	An Ordinance to remit certain Taxes on Lots 17, 18, 19 and 20 in Dawson	The whole.
1912.		
5	An Ordinance to validate Assessment Rolls of the City of Dawson....	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
1913.		
2	An Ordinance to amend the Assessment Ordinance.....	Sec. 3.
4	An Ordinance to declare valid certain By-Laws of the City of Dawson.	The whole.
6	An Ordinance authorizing the Consolidation of the Ordinances of the Yukon Territory and By-Laws of the City of Dawson.....	The whole.
8	An Ordinance respecting Transient Traders as amended by Chapter 13 of the Ordinances of 1914.....	The whole.
10	An Ordinance to provide for a Plebiscite respecting Dawson Public Schools.....	The whole.
11	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
1914.		
3	An Ordinance to validate the Assessment of the City of Dawson.....	The whole.
5	An Ordinance respecting the Consolidated Ordinances 1914.....	The whole.
13	An Ordinance to amend the Ordinance relating to Transient Traders...	The whole.
17	The Dawson City Corporation Ordinance.....	The whole.
19	An Ordinance for granting to the Commissioner certain sums of money to defray the Expense of the Public Service.....	The whole.
21	An Ordinance relating to Charges for Electric Light and Water in Dawson.....	The whole.
CONSOLIDATED ORDINANCES, 1914.		
18	An Ordinance respecting joint stock companies.....	ss. 326-329
1915.		
2	An Ordinance to incorporate the Sisters of Saint Ann.....	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
	1916.	
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
	1917.	
3	An Ordinance to legalize and confirm certain alterations made in public roads.....	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
	1918.	
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Yukon Territory.	The whole.
	1919.	
14	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1920.	
11	An Ordinance granting the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1921.	
11	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1922.	
6	An Ordinance to declare valid a certain notice of sale given under the Crown Grant Tax Ordinance.....	The whole.
7	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1923.	
8	An Ordinance to amend the Companies Ordinance.....	The whole.
10	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1924.	
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1925.	
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1926.	
11	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1927.	
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
	1928.	
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1929.	
11	An Ordinance granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1930.	
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1931.	
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1932.	
6	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service in the Territory, and the City of Dawson.....	The whole.
	1933.	
7	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1934.	
4	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1935.	
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1936.	
1	An Ordinance amending The Companies Ordinance.....	ss. 1, 2.
4	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1937.	
7	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1938.	
10	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1939.	
5	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
	1940.	
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1941.	
1	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1942.	
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1943.	
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1944.	
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1945.	
25	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1946.	
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1947.	
22	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1948.	
21	An Ordinance to authorize and implement an agreement between the Dominion and the Territory.....	The whole.
24	An Ordinance respecting the Yukon Corporation Income Tax.....	The whole.
25	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1949 (1st session).	
14	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
	1949 (2nd session).	
6	An Ordinance to amend The Yukon Corporation Income Tax Ordinance	The whole.
8	An Ordinance respecting municipalities and taxation.....	ss. 7, 413(2) (3) (4).
24	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1950 (1st session).		
12	An Ordinance to authorize and implement an agreement between the Department of National Defence of the Government of Canada and the Government of the Yukon Territory.....	The whole.
21	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory and the City of Dawson.....	The whole.
1950 (2nd session).		
6	An Ordinance to authorize and implement an agreement between the Department of Resources and Development of the Government of Canada and the Government of the Yukon Territory.....	The whole.
10	An Ordinance to amend the Municipal Ordinance.....	s. 2(2).
1951 (1st session).		
2	An Ordinance to relieve the Municipal Council of the City of Dawson and Alderman George O. Shaw from restrictions imposed by section 27 of the Municipal Ordinance.....	The whole.
12	An Ordinance to amend the Municipal Ordinance.....	s. 4.
17	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
1951 (2nd session).		
2	An Ordinance empowering the Deputy Minister (Taxation) of the Department of National Revenue of the Government of Canada to exercise the powers and duties imposed on the Commissioner of the Yukon Territory by the Yukon Corporation Income Tax Ordinance.....	The whole.
1952 (1st session).		
6	An Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Mayo Utilities Limited for the operation of a telephone system in the Mayo Area, Yukon Territory.....	The whole.
12	An Ordinance to provide for Old Age Assistance and allowances to blind persons.....	s. 14.
21	An Ordinance respecting businesses, callings, trade and occupations and the issue of licences therefor.....	s. 11(3).
24	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
1952 (2nd session).		
8	An Ordinance to authorize and implement an agreement between the Government of Canada and the Government of the Yukon Territory, No. 2.....	The whole.
10	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	s. 6.
11	An Ordinance to amend the Yukon Corporation Income Tax Ordinance.....	The whole.
13	An Ordinance granting permission to Yukon Brewery (Holding) Company Limited to manufacture, compound and make intoxicating liquors.....	The whole.
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
1953 (1st session).		
4	An Ordinance to empower the Commissioner to authorize the Department of National Revenue to delete from its accounts due and owing from certain persons.....	The whole.
11	An Ordinance to amend an Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Mayo Utilities Limited for the operating of a telephone system in the Mayo Area, Yukon Territory.....	The whole.
12	An Ordinance to amend An Ordinance granting permission to the Yukon Brewery (Holding) Company Limited to manufacture, compound and make intoxicating liquors.....	The whole.
13	An Ordinance to ratify the tax rental agreement between the Government of Canada and the Government of the Yukon Territory.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
<i>1953 (1st session)—Concluded.</i>		
14	An Ordinance to incorporate The Children's Aid Society.....	The whole.
15	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
<i>(1953 (2nd session).</i>		
2	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
<i>1953 (3rd session).</i>		
2	An Ordinance to amend the Workmen's Compensation Ordinance.....	s. 2.
4	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
<i>1954 (1st session).</i>		
4	An Ordinance to authorize the City of Whitehorse to construct waterworks and purification systems and sewage disposal plants and to borrow money therefor.....	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
14	An Ordinance granting a beer licence to Gordon Crum and Norman Myrton of Teslin, in Yukon Territory.....	The whole.
<i>1954 (2nd session).</i>		
2	An Ordinance empowering the Commissioner of the Yukon Territory to grant a franchise to Yukon Electrical Company Limited to sell and distribute electrical energy in the Whitehorse Area, Yukon Territory	The whole.
3	An Ordinance to authorize the Commissioner to borrow a sum not exceeding one million dollars from the Government of Canada and to loan that sum to the City of Whitehorse, and to authorize the Commissioner to execute an agreement relating thereto.....	The whole.
<i>1954 (3rd session).</i>		
6	An Ordinance respecting bills of sale and chattel mortgages.....	s. 37.
13	An Ordinance respecting the adoption of children.....	s. 3.
46	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
<i>1955 (1st session).</i>		
3	An Ordinance respecting compensation for fatal accidents.....	s. 4(3).
8	An Ordinance respecting liability in actions for damages for negligence where more than one party is at fault.....	s. 10.
16	An Ordinance respecting the profession of pharmaceutical chemist.....	s. 24.
27	An Ordinance to authorize the Commissioner of the Yukon Territory to extend the boundaries of the City of Whitehorse and to make an agreement with the City of Whitehorse.....	The whole.
28	An Ordinance to authorize the Commissioner to lend money to the City of Whitehorse for the construction of municipal works.....	The whole.
30	An Ordinance to authorize the Commissioner of Yukon Territory to enter into an agreement with the City of Whitehorse respecting the construction of a waterworks system and sewage system in the City of Whitehorse and in the new subdivision adjacent to such City, and to authorize the Commissioner to enter into a contract for the construction of such waterworks system and sewage system.....	The whole.
34	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
35	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1955 (2nd session).		
1	An Ordinance to authorize the Commissioner to borrow a sum not exceeding seven hundred and eighty thousand dollars from the Government of Canada and to authorize the Commissioner to execute an agreement relating thereto.....	The whole.
2	An Ordinance to authorize the Commissioner to borrow a sum not exceeding \$750,000 from the Government of Canada to enable the Yukon Territory to contribute a sum not exceeding that amount towards the construction of a hospital at Whitehorse.....	The whole.
3	An Ordinance to approve an agreement respecting a territorial school at Whitehorse made between the Government of Canada and the Commissioner of the Yukon Territory.....	The whole.
4	An Ordinance to authorize the Commissioner to enter into an agreement with La Communauté Des Sœurs de Charité de la Providence and the Catholic Episcopal Corporation of Whitehorse for the erection of a school at Whitehorse to authorize a grant to assist in the erection of such school.....	The whole.
5	An Ordinance to approve an agreement respecting the maintenance of the road between Whitehorse and Mayo in the Yukon Territory between the Government of Canada and the Commissioner of the Yukon Territory.....	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
1955 (3rd session).		
23	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	s. 2.
1956 (1st session).		
3	An Ordinance to provide for the financial administration of the Government of the Yukon Territory.....	s. 43.
9	An Ordinance to authorize the Commissioner to enter into an agreement with the Government of Canada to amend an agreement respecting a loan by Canada to the Yukon Territory in the sum of \$780,000.....	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
13	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
1956 (2nd session).		
11	An Ordinance to amend An Ordinance to incorporate the Children's Aid Society.....	The whole.
12	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
1957 (1st session).		
4	An Ordinance to authorize the Commissioner to sell certain property situate in Whitehorse.....	The whole.
8	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
9	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
1957 (2nd session).		
8	An Ordinance to authorize the Commissioner of the Yukon Territory to enter into an agreement with the Minister of Citizenship and Immigration of Canada respecting the education of Indian children in the City of Whitehorse.....	The whole.
10	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	s. 3.
11	An Ordinance to amend the Disabled Persons Allowance.....	s. 3.
14	An Ordinance to amend the Municipal Ordinance.....	s. 6 (2).
15	An Ordinance for granting to the Commissioner certain additional sums of money to defray the expenses of the Public Service of the Territory.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1958 (1st session).		
4	An Ordinance respecting the conservation of game in the Yukon Territory.....	s. 42(5).
11	An Ordinance to authorize the Commissioner to enter into an agreement with the Minister of Citizenship and Immigration of Canada respecting the education of Indian children in the City of Dawson.....	The whole.
13	An Ordinance to authorize the Commissioner to grant a franchise to the Yukon Electrical Company Limited for the distribution of electrical power in the area of Haines Junction, in the Yukon Territory.....	The whole.
14	An Ordinance to amend the Old Age Assistance and Blind Persons Allowance Ordinance.....	s. 3.
15	An Ordinance to amend the Disabled Persons Allowance.....	s. 3.
23	An Ordinance to amend the Evidence Ordinance.....	s. 2.
26	An Ordinance for granting to the Commissioner certain sums of money to defray the expenses of the Public Service of the Territory.....	The whole.
27	An Ordinance for granting to the Commissioner certain additional sums of money to defray the expenses of the Public Service of the Territory.	The whole.
1958 (2nd session).		
1	An Ordinance to confirm the assessment Roll, Collector's Roll and tax rate of the municipality of Whitehorse for the year 1957.....	The whole.
2	An Ordinance respecting the Revised Ordinances of the Yukon Territory, 1958.....	The whole.
3	Supplementary Appropriation Ordinance, 1958-59.....	The whole.
4	Supplementary Appropriation Ordinance, 1957-58.....	The whole.
CONSOLIDATED ORDINANCES, 1958.		
41	Ferries Ordinance.....	The whole.
60	Judicature Ordinance.....	ss. 4, 15, 35.
1959 (1st session).		
2	Unemployment Assistance Agreement Ordinance.....	The whole.
10	Appropriation Ordinance, 1959-60.....	The whole.
11	Third Appropriation Ordinance, 1958-59.....	The whole.
12	Third Appropriation Ordinance, 1957-58.....	The whole.
13	First Appropriation Ordinance, 1959-60.....	The whole.
1959 (2nd session).		
3	Electrical Franchise Ordinance—Watson Lake.....	The whole.
6	An Ordinance to Amend the First Appropriation Ordinance, 1959-60.....	The whole.
7	An Ordinance to Amend the Appropriation Ordinance, 1959-60.....	The whole.
8	Second Appropriation Ordinance, 1959-60.....	The whole.
9	Third Appropriation Ordinance, 1959-60.....	The whole.
10	Fourth Appropriation Ordinance, 1959-60.....	The whole.
1960 (1st session).		
1	Sale of Certain Lands (Whitehorse) Ordinance.....	The whole.
3	City Frontage Tax (Whitehorse) Ordinance.....	The whole.
8	Fourth Appropriation Ordinance, 1958-59.....	The whole.
9	Appropriation Ordinance, 1960-61.....	The whole.
1960 (3rd session).		
1	Electrical Franchise Ordinance—Carcross.....	The whole.
2	Housing Loan Ordinance, Yukon.....	The whole.
6	First Appropriation Ordinance, 1960-61.....	The whole.
1961 (1st session).		
1	Electrical Franchise Ordinance—Carmacks.....	The whole.
10	Appropriation Ordinance, 1961-62.....	The whole.
11	Second Appropriation Ordinance, 1960-61.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
	1961 (2nd session).	
4	Loan Agreement Ordinance (1961), No. 2	The whole.
	1961 (3rd session).	
4	Loan Agreement Ordinance (1961)	The whole.
5	First Appropriation Ordinance, 1961-62	The whole.
	1962 (1st session).	
2	Loan Agreement Ordinance (1962), No. 1	The whole.
4	Financial Agreement Ordinance, 1962	The whole.
7	School Ordinance	s. 100.
10	Social Service Society Ordinance, Yukon	The whole.
24	Second Appropriation Ordinance, 1961-62	The whole.
25	Interim Supply Appropriation Ordinance, 1962	The whole.
26	Appropriation Ordinance, 1962-63	The whole.
27	First Appropriation Ordinance, 1962-63	The whole.
	1962 (2nd session).	
1	Second Appropriation Ordinance, 1962-63	The whole.
	1962 (4th session).	
1	Third Appropriation Ordinance, 1962-63	The whole.
	1962 (5th session).	
3	Fire Prevention Ordinance	s. 25.
17	Third Appropriation Ordinance, 1961-62	The whole.
18	Fourth Appropriation Ordinance, 1962-63	The whole.
	1963 (1st session).	
1	Electrical Franchise Ordinance—Teslin	The whole.
2	Synod of the Diocese of Yukon Ordinance	The whole.
4	Superannuation Ordinance, Territorial Employees'	s. 7.
14	Interim Supply Appropriation Ordinance	The whole.
15	First Appropriation Ordinance, 1963-64	The whole.
16	Second Appropriation Ordinance, 1963-64	The whole.
	1963 (2nd session).	
2	Wages Recovery Ordinance	s. 24.
4	Mayo Seaplane Base Agreement Ordinance	The whole.
11	An Ordinance to Amend the Electrical Franchise Ordinance—Teslin	The whole.
14	Fifth Appropriation Ordinance, 1962-63	The whole.
15	Third Appropriation Ordinance, 1963-64	The whole.
	1964 (1st session).	
14	Interim Supply Appropriation Ordinance, 1964	The whole.
15	First Appropriation Ordinance, 1964-65	The whole.
16	Second Appropriation Ordinance, 1964-65	The whole.
17	Third Appropriation Ordinance, 1964-65	The whole.
	1964 (2nd session).	
2	Royal Canadian Mounted Police Agreement Ordinance	The whole.
4	An Ordinance to Amend the Electrical Franchise Ordinance—Carmacks	The whole.
5	An Ordinance to Amend the Electrical Franchise Ordinance—Carcross	The whole.
14	First Appropriation Ordinance, 1964-65	The whole.
	1965 (1st session).	
7	Second Appropriation Ordinance, 1964-65	The whole.
8	Interim Supply Appropriation Ordinance, 1965	The whole.
9	First Appropriation Ordinance, 1965-66	The whole.
10	Second Appropriation Ordinance, 1965-66	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1965 (2nd session).		
9	First Appropriation Ordinance, 1965-66.....	The whole.
1966 (1st session).		
4	Dawson City Sewage Disposal System Sale Ordinance.....	The whole.
13	Interim Supply Appropriation Ordinance, 1966.....	The whole.
14	Interim Supply Appropriation Ordinance, (1966), No. 2.....	The whole.
15	First Appropriation Ordinance, 1966-67.....	The whole.
16	Second Appropriation Ordinance, 1966-67.....	The whole.
1966 (2nd session).		
1	Workmen's Compensation Ordinance.....	s. 61.
4	Whitehorse Centennial Complex Loan Ordinance.....	The whole.
16	First Appropriation Ordinance, 1966-67.....	The whole.
17	Second Appropriation Ordinance, 1966-67.....	The whole.
1967 (1st session).		
1	Cemeteries and Burial Sites Ordinances.....	s. 10.
18	An Ordinance to Amend the Loan Agreement Ordinance (1962), No. 1....	The whole.
19	Financial Agreement Ordinance, 1967.....	The whole.
20	Interim Supply Appropriation Ordinance, 1967.....	The whole.
21	First Appropriation Ordinance, 1967-68.....	The whole.
22	Second Appropriation Ordinance, 1967-68.....	The whole.
23	Interim Supply Appropriation Ordinance, (1967), No. 2.....	The whole.
1967 (2nd session).		
1	Adult Occupational Training Agreements Ordinance.....	The whole.
17	Loan Agreement Ordinance (1967), No. 1.....	The whole.
1968 (2nd session).		
1	Labour Standards Ordinance.....	ss. 50-52.
4	An Ordinance to Amend the Financial Agreement Ordinance, 1967.....	The whole.
13	Interim Supply Appropriation Ordinance, 1968.....	The whole.
14	First Appropriation Ordinance, 1968-69.....	The whole.
1968 (3rd session).		
1	Lands Ordinance, Yukon.....	s. 7.
2	Canada and Anvil Agreements Ordinance.....	The whole.
4	First Appropriation Ordinance, 1968-69.....	The whole.
1968 (4th session).		
2	Fuel Oil Tax Ordinance.....	s. 18.
4	Hotels and Tourist Establishments Ordinance.....	s. 23.
13	An Ordinance to Amend the Loan Agreement Ordinance (1962), No. 1....	The whole.
18	Fourth Appropriation Ordinance, 1968-69.....	The whole.
1969 (1st session).		
1	Financial Agreement Ordinance, 1969.....	The whole.
2	An Ordinance to Amend the Financial Agreement Ordinance, 1967.....	The whole.
4	Fifth Appropriation Ordinance, 1968-69.....	The whole.
5	First Appropriation Ordinance, 1969-70.....	The whole.
1969 (2nd session).		
11	Second Appropriation Ordinance, 1969-70.....	The whole.
1969 (3rd session).		
6	Third Appropriation Ordinance, 1969-70.....	The whole.
7	Fourth Appropriation Ordinance, 1969-70.....	The whole.

Appendix.

No.	Title of Ordinance.	Portion of Ordinance.
1970 (1st session).		
2	Child Welfare Ordinance	s. 96.
3	Liquor Ordinance	s. 105.
10	Financial Agreement Ordinance, 1970	The whole.
11	First Appropriation Ordinance, 1970-71	The whole.
12	Interim Supply Appropriation Ordinance, 1970-71	The whole.
1970 (2nd session).		
2	Friendship Centres Agreement Ordinance	The whole.
9	Canada and Anvil Agreement Ordinance, No. 2	The whole.
10	Loan Agreement Ordinance (1970), No. 1	The whole.
11	Loan Agreement Ordinance (1970), No. 2	The whole.
13	Fifth Appropriation Ordinance, 1969-70	The whole.
14	Second Appropriation Ordinance, 1970-71	The whole.
15	Third Appropriation Ordinance, 1970-71	The whole.
1970 (3rd session).		
1	Securities Ordinance	s. 52.
3	Whitchose Streets and Lanes Ordinance	The whole.
1971 (1st session).		
1	Financial Agreement Ordinance, 1971	The whole.
7	Faro General Purposes Loan Ordinance	The whole.
9	Loan Agreement Ordinance (1971), No. 1	The whole.
11	Mental Health Ordinance	s. 10.
14	Whitchose Water and Sewer System Upgrading Loan Ordinance	The whole.
30	An Ordinance to Amend the Yukon Loan Ordinance, 1955	The whole.
32	Fourth Appropriation Ordinance, 1970-71	The whole.
33	First Appropriation Ordinance, 1971-72	The whole.
34	Second Appropriation Ordinance, 1971-72	The whole.
35	Fifth Appropriation Ordinance, 1970-71	The whole.
1971 (3rd session).		
1	Financial Agreement Ordinance, 1972	The whole.
12	Third Appropriation Ordinance, 1971-72	The whole.
13	Fourth Appropriation Ordinance, 1971-72	The whole.

Appendix

OFFICE CONSOLIDATION

YUKON ACT

R.S.C. 1970, c. Y-2

amended by

R.S.C. 1970, 1st Supp., c. 48

AN ACT TO PROVIDE FOR THE GOVERNMENT OF
THE YUKON TERRITORY

SHORT TITLE

1. This Act may be cited as the *Yukon Act*. 1952-53, c. 53, s. Short title

INTERPRETATION

2. In this Act
- | | Definitions |
|--|---------------------------|
| "Commissioner" means the Commissioner of the Yukon Territory ; | "Commissioner" |
| "Commissioner in Council" means the Commissioner acting by and with the advice and consent of the Council ; | "Commissioner in Council" |
| "Committee" means the Advisory Committee on Finance established pursuant to section 12 ; | "Committee" |
| "Council" means the Council of the Yukon Territory ; | "Council" |
| "intoxicant" includes alcohol, alcoholic, spirituous, vinous, fermented malt or other intoxicating liquor or combination of liquors and mixed liquor a part of which is spirituous, vinous, fermented or otherwise intoxicating and all drinks, drinkable liquids, preparations or mixtures capable of human consumption that are intoxicating ; | "intoxicant" |
| "Minister" means the Minister of Indian Affairs and Northern Development ; | "Minister" |
| "ordinance" includes an ordinance of the Territory passed before or after the 1st day of April 1955 ; | "ordinance" |
| "public lands" means any lands, in the Territory, belonging to Her Majesty in right of Canada or of which the Government of Canada has power to dispose ; | "public lands" |
| "Territory" means the Yukon Territory, which comprises the area described in the schedule. 1952-53, c. 53, s. 2 ; 1953-54, | "Territory" |

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c. 4, s. 12; 1960, c. 24, s. 1; 1966-67, c. 25, s. 40; 1970, 1st supp., c. 48, s. 1.

PART I
GOVERNMENT

Commissioner

- Appointment** **3.** The Governor in Council may appoint for the Territory a chief executive officer to be styled and known as the Commissioner of the Yukon Territory. 1952-53, c. 53, s. 3.
- Administration of government** **4.** The Commissioner shall administer the government of the Territory under instructions from time to time given him by the Governor in Council or the Minister. 1952-53, c. 53, s. 4.
- Administrator** **5.** The Governor in Council may appoint an Administrator to execute the office and functions of the Commissioner during his absence or illness or other inability or when the office of Commissioner is vacant. 1952-53, c. 53, s. 5.
- Oaths of office** **6.** The Commissioner and every Administrator appointed under this Act shall, before assuming the duties of his office, take and subscribe such oaths of office and allegiance in such manner as the Governor in Council may prescribe. 1952-53, c. 53, s. 6.
- Salaries** **7.** The salary of the Commissioner and of the Administrator shall be fixed by the Governor in Council and shall be paid out of the Consolidated Revenue Fund. 1952-53, c. 53, s. 7.

Seat of Government

- Seat of government** **8.** The seat of government of the Territory shall be that prescribed by the Governor in Council and may, from time to time, be changed by him. 1952-53, c. 53, s. 8.

Council

- Elective Council** **9.** (1) There shall be a Council of the Yukon Territory, which shall be composed of seven members elected to represent such electoral districts in the Territory as are named and described by the Commissioner in Council.
- Duration of Council** (2) Every Council shall continue for four years from the date of the return of the writs for the general election and no longer, but the Governor in Council may at any time, after consultation with the Council where he deems such consulta-

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tion to be practicable or, otherwise, after consultation with each of the members of the Council with whom consultation can then be effected, dissolve the Council and cause a new Council to be elected. 1952-53, c. 53, s. 9; 1960, c. 24, s. 2; 1970, 1st supp., c. 48, s. 2.

10. Each member of the Council shall, before assuming the duties of his office, take and subscribe before the Commissioner such oaths of office and allegiance as the Governor in Council may prescribe. 1952-53, c. 53, s. 10. Oaths of office

11. The Commissioner shall convene at least one session in every calendar year so that twelve months shall not intervene between the last sitting of the Council in one session and its first sitting in the next session. 1952-53, c. 53, s. 11. Yearly session

12. (1) There shall be an Advisory Committee on Finance consisting of three members of the Council to be appointed by the Commissioner upon the recommendation of the Council. Advisory Committee on Finance

(2) Two members of the Committee constitute a quorum. Quorum

(3) The Commissioner shall consult with the Committee in the preparation of the estimates of the expenditures and appropriations required to defray the charges and expenses of the Public Services of the Territory for each fiscal year. 1960, c. 24, s. 3; 1966-67, c. 28, s. 1; 1970, 1st supp., c. 48, s. 3. Consultation with Committee

(4) Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 3.

13. A majority of the Council, including the Speaker, constitutes a quorum. 1952-53, c. 53, s. 13. Quorum

14. The Commissioner in Council may prescribe

- (a) the qualifications of persons as electors and the qualifications of electors to vote at an election of members of the Council;
 - (b) the qualifications of persons as candidates for election as members of the Council; and
 - (c) the reasons for which an elected member of the Council may be or become disqualified from being or sitting as a member of the Council. 1952-53, c. 53, s. 14; 1970, 1st supp., c. 48, ss. 4 (1).
- Commissioner in Council may prescribe qualifications of electors, candidates, etc.

15. (1) Subject to subsection (3), each member of the Council shall be paid out of the Yukon Consolidated Revenue Fund such annual indemnity and such travelling and living expenses for each session of the Council as the Commissioner in Council may prescribe. Sessional indemnity and expenses

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Indemnities and expenses for Committee members

(2) Subject to subsection (3), each member of the Advisory Committee on Finance and of any other committee of the Council shall be paid out of the Yukon Consolidated Revenue Fund, in addition to his annual indemnity, such indemnity and such travelling and living expenses as the Commissioner in Council may prescribe.

Payment of indemnities

(3) The Commissioner in Council may prescribe the terms and conditions on which the indemnities and travelling and living expenses prescribed pursuant to subsections (1) and (2) shall be paid to members of the Council or any committee thereof.

Part of indemnity not taxable

(4) The first one thousand dollars of the indemnity paid to a member of the Council under subsection (1) in any year is not income for the purposes of the *Income Tax Act*, 1955, c. 23, s. 1; 1966-67, c. 28, s. 2; 1970, 1st supp. c. 48, s. 5.

Legislative Powers of Commissioner in Council

Legislative powers

16. The Commissioner in Council may, subject to this Act and any other Act of the Parliament of Canada, make ordinances for the government of the Territory in relation to the following classes of subjects, namely:

- (a) direct taxation within the Territory in order to raise a revenue for territorial, municipal or local purposes;
- (b) the establishment and tenure of territorial offices and the appointment and payment of territorial officers;
- (c) municipal institutions in the Territory, including municipalities, school districts, local improvement districts, and irrigation districts;
- (d) election of members of the Council and controverted elections;
- (e) the licensing of any business, trade, calling, industry, employment or occupation in order to raise a revenue for territorial, municipal or local purposes;
- (f) the incorporation of companies with territorial objects, including tramways and street railway companies but excluding railway, steamship, air transport, canal, telegraph, telephone or irrigation companies;
- (g) the solemnization of marriage in the Territory;
- (h) property and civil rights in the Territory;
- (i) the administration of justice in the Territory, including the constitution, maintenance and organization of territorial courts, both civil and of criminal jurisdiction, and including procedure in civil matters in those courts;

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- (j) the establishment, maintenance and management of public and reformatory prisons in and for the Territory ;
- (k) to (n) Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 6.
- (o) the issuing of licences or permits to scientists or explorers to enter the Territory or any part thereof and the prescription of the conditions under which such licences or permits may be issued and used ;
- (p) the levying of a tax upon furs or any portion of fur-bearing animals to be shipped or taken from the Territory to any place outside the Territory ;
- (q) the preservation of game in the Territory ;
- (r) education in the Territory, subject to the conditions that any ordinance respecting education shall always provide that a majority of the ratepayers of any district or portion of the Territory, or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit, and make the necessary assessment and collection of rates therefor ; and also that the minority of the ratepayers therein, whether Protestant or Roman Catholic, may establish separate schools therein, and in such case, the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof ;
- (s) the closing up, varying, opening, establishing, building, management or control of any roads, streets, lanes or trails on public lands ;
- (t) intoxicants ;
- (u) the establishment, maintenance and management of hospitals in and for the Territory ;
- (v) agriculture ;
- (w) the expenditure of territorial funds and such portion of any moneys appropriated by Parliament for the Territory as the Commissioner is authorized to expend by and with the advice of the Council ;
- (x) generally, all matters of a merely local or private nature in the Territory ;
- (y) the imposition of fines, penalties, imprisonment or other punishments in respect of the violation of the provisions of any ordinance ; and
- (z) such other matters as are from time to time designated by the Governor in Council. 1952-53, c. 53, s. 16 ; 1970, 1st supp., c. 48, s. 6.

17. (1) Nothing in section 16 shall be construed to give the Commissioner in Council greater powers with respect to any Restriction on powers

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class of subjects described therein that are given to legislatures of the provinces of Canada under sections 92 and 95 of the *British North America Act, 1867*, with respect to similar subjects therein described.

Game ordinances in respect of Indians and Eskimos

(2) Notwithstanding subsection (1) but subject to subsection (3), the Commissioner in Council may make ordinances for the government of the Territory, in relation to the preservation of game in the Territory, that are applicable to and in respect of Indians and Eskimos, and ordinances made by the Commissioner in Council in relation to the preservation of game in the Territory, unless the contrary intention appears therein, are applicable to and in respect of Indians and Eskimos.

Hunting for food

(3) Nothing in subsection (2) shall be construed as authorizing the Commissioner in Council to make ordinances restricting or prohibiting Indians or Eskimos from hunting for food, on unoccupied Crown lands, game other than game declared by the Governor in Council to be game in danger of becoming extinct. 1952-53, c. 53, s. 17; 1960, c. 24, s. 4.

Agreements with Government of Canada

18. The Commissioner in Council may make ordinances authorizing the Commissioner to enter into an agreement with the Government of Canada under and for the purposes of any Act of the Parliament of Canada that authorizes the Government of Canada to enter into agreements with the provinces, but no such agreement shall be entered into by the Commissioner without the approval of the Governor in Council. 1952-53, c. 53, s. 18.

Borrowing and lending

19. (1) The Commissioner in Council may make ordinances

- (a) for the borrowing of money by the Commissioner on behalf of the Territory for territorial, municipal or local purposes;
- (b) for the lending of money by the Commissioner to any person in the Territory; and
- (c) for the investment by the Commissioner of surplus money standing to the credit of the Yukon Consolidated Revenue Fund.

Charge on Yukon C.R.F.

(2) The payment of all money borrowed under the authority of this section and interest thereon is a charge on and payable out of the Yukon Consolidated Revenue Fund.

Restriction

(3) No money shall be borrowed under the authority of this section without the approval of the Governor in Council. 1952-53, c. 53, s. 19; 1958, c. 9, s. 1; 1966-67, c. 28, s. 3; 1970, 1st supp., c. 48, s. 7.

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20. (1) A copy of every ordinance made by the Commissioner in Council shall be transmitted to the Governor in Council within thirty days after the passing thereof and shall be laid before both Houses of Parliament as soon as conveniently may be thereafter.

Ordinances to be laid before Parliament

(2) Any ordinance made after the 25th day of June 1970 or any provision of such ordinance may be disallowed by the Governor in Council at any time within one year after its passage. 1952-53, c. 53, s. 20; 1970, 1st supp., c. 48, s. 8.

Disallowance

21. Notwithstanding paragraph 13(1)(b) of the *Public Service Staff Relations Act*, a person is not ineligible to hold office as a member of the Public Service Staff Relations Board by reason only of holding office as a member of any board that may be constituted by the Commissioner in Council with powers and duties similar to those of the Public Service Staff Relations Board. 1952-53, c. 53, s. 21; 1970, 1st supp., c. 48, s. 9.

Eligibility under P.S.S.R. Act

Laws Applicable to Territory

22. (1) Subject to this Act, the laws relating to civil and criminal matters and the ordinances in force in the Northwest Territories on the 13th day of June 1898 are and remain in force in the Territory, insofar as they are applicable thereto, and in so far as they have not been or are not hereafter repealed, abolished or altered by the Parliament of Canada, or by any ordinance.

Existing laws continued

(2) All laws of general application in force in the Territory are, except where otherwise provided, applicable to and in respect of Eskimos in the Territory. 1952-53, c. 53, s. 22; 1960 c. 24, s. 5.

Laws applicable to Eskimos

Yukon Consolidated Revenue Fund

23. (1) All public moneys and revenue over which the Commissioner in Council has the power of appropriation shall form a fund to be known as the Yukon Consolidated Revenue Fund.

Yukon C.R.F.

(2) The Commissioner shall establish, in the name of the government of the Yukon Territory, accounts with such chartered banks as he designates for the deposit of public moneys and revenue. 1952-53, c. 53, s. 28; 1966-67, c. 28, s. 4.

Establishment of bank accounts

24. It is not lawful for the Council to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue of the Territory, or of any tax or impost, to any purpose that has not been first recommended to Council by message of the Commissioner, in the session in

Recommendation of Commissioner

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which such vote, resolution, address, or bill is proposed. 1952-53, c. 53, s. 24.

Appropriation of
moneys granted
by Parliament

25. When any sum of money is granted to Her Majesty by Parliament to defray expenses for any specified public service in the Yukon Territory, the power of appropriation by the Commissioner in Council over that sum is subject to the specified purpose for which it is granted. 1952-53, c. 53, s. 25.

Territorial Accounts

Submission of
Territorial
Accounts to
Council

26. (1) A report for each fiscal year of the Territory, called the Territorial Accounts, shall be laid before the Council by the Commissioner on or before such day following the termination of the fiscal year as the Council may fix, and the Council shall consider the same.

(2) The Territorial Accounts shall be in such form as the Commissioner may direct, and shall include

Form and
content

- (a) a report on the financial transactions of the fiscal year;
- (b) a statement, certified by the Auditor General of Canada, of the expenditures and revenues of the Territory for the fiscal year;
- (c) a statement, certified by the Auditor General, of assets and liabilities as at the termination of the fiscal year; and
- (d) such other information or statements as are required in support of the statements referred to in paragraphs (b) and (c), or as are required by ordinance or by the Minister.

Fiscal year

(3) The fiscal year of the Territory shall be the period beginning on the 1st day of April in one year and ending on the 31st day of March in the following year.

Examination
and report by
Auditor General
of Canada

(4) The accounts and financial transactions of the Territory shall be examined by the Auditor General of Canada who shall report annually to the Council the result of his examination, and the report shall state whether in his opinion

- (a) proper books of account have been kept by the Territory;
- (b) the financial statements of the Territory
 - (i) were prepared on a basis consistent with that of the preceding fiscal year and are in agreement with the books of account,
 - (ii) in the case of the statement of expenditures and revenues, give a true and fair view of the expenditures and revenues of the Territory for the fiscal year, and

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(iii) in the case of the statement of assets and liabilities, give a true and fair view of the affairs of the Territory at the end of the fiscal year; and

(c) the transactions of the Territory that have come under his notice have been within the powers of the Territory under this Act and any other Act applicable to the Territory;

and the Auditor General shall call attention to any other matter falling within the scope of his examination that in his opinion should be brought to the attention of the Council.

(5) The Auditor General of Canada has, in connection with his examination of the Accounts of the Territory, all the powers that the Auditor General has under the *Financial Administration Act* in connection with the examination of the accounts of Canada. 1966-67, c. 28, s. 5; 1970, 1st supp., c. 48, s. 10.

Powers of
Auditor General

Judicature

26.1 (1) The Governor in Council shall appoint the judges of such superior, district or county courts as are now or may hereafter be constituted in the Territory.

Appointment of
judges

(2) The judges of the superior, district and county courts in the Territory shall hold office during good behaviour but are removable by the Governor in Council on address of the Senate and House of Commons and cease to hold office upon attaining the age of seventy-five years.

Tenure of office
of judges

PART II

ADMINISTRATION OF JUSTICE

Territorial Court

27. (1) Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

(2) A judge of the Territorial Court of the Northwest Territories is *ex officio* a judge of the Territorial Court of the Yukon Territory. 1952-53, c. 53, s. 27; 1960, c. 24, s. 6.

Judge of N.W.T.
Territorial court
ex officio judge.

28. Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

29. (1) The Governor in Council may appoint any person who is or has been a judge of a superior, county or district court of any of the provinces of Canada or a barrister or advocate of at least ten years standing at the bar of any such province to be a deputy judge of the Court and fix his remuneration and allowances.

Deputy judges

Appendix

- Tenure of office** (2) A deputy judge may be appointed pursuant to this section for any particular case or cases or for any specified period of time and his appointment shall be terminated at the pleasure of the Governor in Council.
- Powers** (3) A deputy judge shall be sworn to the faithful performance of his duties in the same manner as a judge of the Court and, during his appointment, temporarily has and may exercise all the powers, authorities, and functions of a judge of the Court and the expression "judge of the Court" shall be deemed to include a deputy judge of the Court. 1952-53, c. 53, s. 29; 1960, c. 24, s. 7.
- 30.** Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.
- 31.** Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.
- Residence** **32.** Each judge of the Court shall reside at such place as the Governor in Council, in the Commission to such judge, or by order in council, directs. 1952-53, c. 53, s. 32.
- 33.** (1) Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.
- Court may sit in N.W.T.** (2) The Court may sit in the Northwest Territories for the purpose of hearing a civil case other than a civil case where the Court sits with a jury.
- Power when sitting in N.W.T.** (3) When the Court sits in the Northwest Territories the Court has and may exercise all the powers, duties and functions in the Northwest Territories that it has and may exercise when sitting in the Yukon Territory. 1952-53, c. 53, s. 33; 1960, c. 24, s. 8.
- 34.** Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.
- 35** (1) to (4) Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.
- Sittings** (5) The Court of Appeal may sit in the Territory or in the Province of British Columbia.
- (6) to (14) Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.
- Power to order trials for offences in Yukon to be held in N.W.T.** **36.** (1) Whenever it appears to the satisfaction of the Minister of Justice that it is expedient to the ends of justice that the trial of any person charged with an indictable offence alleged to have been committed north of the 65th parallel of latitude, in the Yukon Territory should be held in some district or place other than that in which the offence is alleged to have been committed or would otherwise be triable, the Minister of Justice may order that the trial shall be proceeded with in the Northwest Territories before the court or judge named in such order, and thereupon the court or judge so named has jurisdiction to try such person.

Appendix

(2) The provisions of the *Northwest Territories Act* apply to such trial. R.S., c. 299, ss. 2, 3. Northwest
Territories Act to
apply

Police Magistrates

37. Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

38. A police magistrate has and may exercise the powers, duties and functions of a justice of the peace or any two justices of the peace under this Act or any other law or ordinance in force in the Territory. 1952-53, c. 53, s. 37. Powers

39. Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

40. Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

Justices of the Peace

41. (1), (2) and (4) Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

(3) Every justice of the peace in and for the Territory has and may exercise, throughout the Territory, the powers, duties and functions of two justices of the peace under any law or ordinance in force in the Territory. 1952-53, c. 53, s. 40; 1960, c. 24, s. 10. Powers

42. Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

43. Repealed, R.S.C. 1970, 1st Supp., c. 48, s. 12.

Confinement of Prisoners

44. (1) The following places in the Territory are prisons, goals or lock-ups 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, namely : Prisons in the
Territory

(a) every guardhouse, guardroom or other place of confinement that is maintained or managed by the Royal Canadian Mounted Police; and

(b) every building or part thereof or other enclosure other than those referred to in paragraph (a), that is designated as a prison, goal or lock-up for the purposes of this section by the Commissioner in Council.

(2) Where it is impossible or inconvenient, by reason of absence or remoteness, to confine a person referred to in subsection (1) in a prison, goal or lock-up, such person may be sentenced or directed by a judge of the Court, police magistrate or justice of the peace, as the case may be, to be placed Idem

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and kept in the custody of the Royal Canadian Mounted Police. 1952-53, c. 53, s. 43; 1966-67, c. 28, s. 6.

Regulations
respecting
R.C.M.P.
guardhouses, etc.

45. (1) The Governor in Council may make rules and regulations for the management, discipline and policy of guardhouses, guardrooms or other places of confinement referred to in paragraph 44(1)(a), for the duties and conduct of persons employed therein or otherwise charged with the custody of prisoners and for all matters pertaining to the maintenance, discipline or conduct of prisoners including their employment outside as well as within any such guardhouse, guardroom or other place of confinement.

Regulations
respecting
prisons and
prisoners

(2) The Commissioner may make rules and regulations for the management, discipline and policy of prisons, goals or lock-ups designated as such by the Commissioner in Council under paragraph 44(1)(b), for the duties and conduct of persons employed therein or otherwise charged with the custody of prisoners and for all matters pertaining to the maintenance, discipline or conduct of prisoners including their employment outside as well as within any such prison, goal or lock-up. 1966-67, c. 28, s. 7.

PART III GENERAL

Lands

Power to hold
lands

- 46.** The following properties, namely,
- (a) lands acquired before or after the 1st day of April 1955 with territorial funds,
 - (b) public lands, the administration of which has, before or after the 1st day of April 1955, been transferred by the Governor in Council to the Territory,
 - (c) all roads, streets, lanes and trails on public lands, and
 - (d) lands acquired by the Territory pursuant to tax sale proceedings,

are and remain vested in Her Majesty in right of Canada, but the right to the beneficial use or to the proceeds thereof is hereby appropriated to the Territory and is subject to the control of the Commissioner in Council; and any such lands, roads, streets, lanes or trails may be held by and in the name of the Commissioner for the beneficial use of the Territory. 1952-53, c. 53, s. 45; 1966-67, c. 28, s. 8.

Reindeer

Regulations
respecting
reindeer

- 47.** (1) The Governor in Council may make regulations

Appendix

- (a) authorizing the Minister to enter into agreements with Eskimos or Indians, or persons with Eskimo or Indian blood living the life of an Eskimo or Indian, for the herding of reindeer that are the property of Her Majesty, such agreements, if deemed advisable by the Minister, to include provisions for the transfer of such portions of the herds as may be therein specified to the herders upon satisfactory completion of the agreements;
- (b) for the control management, administration and protection of reindeer in the Territory, whether they are the property of Her Majesty or otherwise;
- (c) for the sale of reindeer and the slaughter or other disposal of surplus reindeer and the carcasses thereof; and
- (d) controlling or prohibiting the transfer or shipment by any means of reindeer or their carcasses or parts thereof, whether they are the property of Her Majesty or otherwise, from any place in the Territory to any other place within or outside the Territory.

(2) Where a peace officer or any person who is a game officer under any ordinance has reasonable grounds for believing that any reindeer or part thereof has been taken, killed, transferred, shipped or had in possession in violation of the regulations or that any vessel, vehicle, aircraft, firearm, trap or other article or thing has been used in violation of the regulations, he may, in the Territory, without a warrant, effect seizure thereof. Seizure

(3) Every seizure made under subsection (2) shall be reported as soon as practicable to a justice of the peace who may, upon satisfying himself that the reindeer or part thereof on the vessel, vehicle, aircraft, firearm, trap or other article or thing has been taken, dealt with or used in violation of the regulations, declare it to be forfeited to Her Majesty and, upon such declaration, it is forfeited. Forfeiture

(4) The *Game Export Act* applies to reindeer or the carcasses or part thereof and for that purpose, "Game" under that Act shall be deemed to include such reindeer, carcasses or part thereof, "killed" to include the taking of capture of or dealing in live reindeer and "export permit" to include a permit or licence issued under the regulations made pursuant to this section. 1952-53, c. 53, s. 46. Application of
the *Game Export*
Act

Intoxicants

48. (1) No intoxicant shall be manufactured, compounded or made in the Territory or imported or brought into the Manufacture
and importation
of intoxicants

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Territory from any place outside the Territory, whether it is in Canada or elsewhere, except by permission of the Commissioner or a person authorized by him.

Subject to
customs and
excise laws

(2) Intoxicants manufactured, compounded or made in the Territory or imported or brought into the Territory are subject to the customs and excise laws of Canada.

Seizure

(3) Where a peace officer has reasonable grounds for believing that any intoxicant has been manufactured, compounded or made in the Territory or imported or brought into the Territory from any place outside the Territory in violation of this Act or that any vessel, vehicle, aircraft, appliance, article or thing has been used for any of the above purposes in violation of this Act, he may, in the Territory, without a warrant, effect seizure thereof.

Forfeiture

(4) Every seizure made under subsection (3) shall be reported as soon as practicable to a justice of the peace who may, upon satisfying himself that the intoxicant or the vessel, vehicle, aircraft, appliance, article or thing has been manufactured, compounded, made, imported, brought in or dealt with or used in violation of this Act, declare it to be forfeited to Her Majesty and, upon such declaration, it is forfeited.

Importation of
Intoxicating
Liquors Act not
applicable

(5) The *Importation of Intoxicating Liquors Act* does not apply to the importation, sending, taking or transportation of intoxicating liquors into the Territory. 1952-53, c. 53, s. 47; 1958, c. 9, s. 4.

Mentally Disordered Persons

Transfer to
provincial
institutions

49. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province of Canada for the admission to mental institutions, asylums or other suitable places in the province of

- (a) mentally disordered persons and for the confinement, care and maintenance of such persons until the pleasure of the Commissioner is made known or until they are discharged by law,
- (b) persons in respect of whom the Court, a police magistrate of the Territory or a justice of the peace in and for the Territory has ordered that a psychiatric examination be made, for the purpose of such examination, and
- (c) persons in respect of whom the Commissioner has approved psychiatric examination and treatment, for the purpose of such examination and, where necessary, such treatment,

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and for the compensation to be paid to the province in respect of the confinement, care, maintenance, examination and treatment of such persons.

(2) The compensation to be paid to a province under subsection (1) shall be paid out of the Yukon Consolidated Revenue Fund. 1966-67, c. 28, s. 9. Payment out of Yukon C.R.F.

50. (1) Where a mentally disordered person has escaped from a mental institution, asylum or other place of confinement, within or outside the Territory, any person employed therein or connected therewith or other person requested by the person in immediate charge or control thereof may, within forty-eight hours after such escape, without a warrant, retake the escaped person and return him thereto, or may, at any time after such escape up to the time specified in the warrant, do so if a warrant is issued to him for that purpose. Recapture

(2) A warrant may be issued for the purposes of subsection (1) by the person in immediate charge or control of the mental institution, asylum or other place of confinement from which the escape was made and shall contain the name and description of the escaped mentally disordered person, the name and office, if any, of the person to whom it is issued, the place to which and the time, not exceeding three months, for which and the person to whom the escaped person is to be returned the warrant is valid. Warrants

(3) An escaped person who is returned to custody under this section shall remain in custody under the authority by virtue of which he was detained prior to his escape. 1952-53, c. 53, s. 49; 1966-67 c. 28, s. 10. Custody of recaptured persons

Neglected Children

51. (1) The Commissioner may, subject to the approval of the Minister, arrange with any province of Canada for the removal of neglected children from the Territory to foster homes or suitable institutions in that province, for their care, education and maintenance therein and for the compensation to be paid to that province in respect of the care, education and maintenance of such neglected children. Arrangements for care in provincial institutions

(2) The compensation to be paid to a province under subsection (1) shall be paid out of territorial revenues. 1952-53, c. 53, s. 50. Payment

Archaeological Sites

52. (1) The Governor in Council may make regulations for the protection, care and preservation of sites, works, objects and specimens of archaeological, ethnological or his- Regulations

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torical importance, interest or significance and explorers' cairns and explorers' documents.

Power to seize

(2) Where any peace officer has reasonable grounds for believing that any object, specimen or document has been removed, taken, shipped, had in possession or otherwise dealt with contrary to the regulations, he may, in the Territory, without a warrant, effect seizure thereof.

(3) Every seizure made under subsection (2) shall be reported as soon as practicable to a justice of the peace, who may upon satisfying himself that the object, specimen or document was removed, taken, shipped, had in possession or otherwise dealt with contrary to the regulations, declare it to be forfeited to Her Majesty and upon such declaration, it is forfeited. 1952-53, c. 53, s. 51.

Offence and Penalty

Offence and penalty

53. Every person who violates a provision of this Act or the regulations is guilty of an offence and is liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding one year, or to both. 1952-53, c. 53, s. 52.

Export of gold without payment of royalty

54. (1) Every person who exports or attempts to export from the Territory any gold that was obtained from placer mining operations and with respect to which any royalty imposed by law has not been paid, is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years, or to both.

Forfeiture

(2) Where a person is convicted under subsection (1) the convicting magistrate or justice may in his discretion order that the gold in respect of which the conviction is had is and thereupon the gold shall be forfeited to Her Majesty.

Production of certificate that royalty paid

(3) Every person about to export such gold from the Territory shall upon demand produce to any peace officer a certificate from the Commissioner of the Territory or person authorized by the Commissioner certifying that the royalty with respect to such gold has been paid and failure to produce the certificate upon such demand is *prima facie* evidence that the royalty has not been paid.

Search without warrant and seizure

(4) Where any peace officer has reasonable and probable grounds for believing that any person has committed or has reason to believe that any person is about to commit an offence described in subsection (1) or has in his possession or in his belongings any such gold in respect of which the royalty has not been paid, such peace officer may without

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warrant search such person and his belongings and any articles believed to be his belongings and may seize any such gold found upon such person or in such belongings.

(5) No female shall be searched pursuant to this section except by a suitable woman who is a peace officer or is authorized by the peace officer to make the search. Search of female

(6) Any gold seized pursuant to subsection (4) may be detained for a period of six months, and if before the expiration of such period any proceedings with respect to such gold are taken under this Act, may be further detained until such proceedings are finally concluded. Detention of seized gold

(7) For the purpose of this section the expression "peace officer" means a peace officer as defined in the *Criminal Code*, 1952-53, c. 53, s. 53. "peace officer"

SCHEDULE

The Yukon Territory shall be bounded as follows:

On the south, by the Province of British Columbia and the United States Territory of Alaska; on the west, by the said United States Territory of Alaska; on the north, by that part of the Arctic Ocean called Beaufort Sea; and on the east, by a line beginning at the intersection of the north boundary of British Columbia with a line passing through a boundary pipe post set in concrete, trench and mound, numbered 600, planted by the British Columbia-Yukon-Northwest Territories Boundary Commission approximately 1 chain westerly of the left bank of the Liard River, said line having a bearing of 309° with reference to the meridian through said post;

Thence northwesterly along said line to a point on the line of watershed separating the streams flowing into the Liard River below the La Biche River or into the Mackenzie River from those flowing into the La Biche River, into the Liard River above the La Biche River, or into the Yukon River;

Thence northwesterly along said line of watershed to the line of watershed of the basin of Peel River;

Thence northerly along the line of watershed between the Peel and Mackenzie Rivers to the sixty-seventh degree of north latitude;

Thence westerly along the parallel of the sixty-seventh degree of north latitude to the line of watershed between the Peel and Yukon Rivers;

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Thence northerly along the said line of watershed to the trail across the portage in McDougall Pass between Rat and Bell Rivers;

Thence due north to the northern limit of the Yukon Territory; the said Territory to include the islands within twenty statute miles from the shores of the Beaufort Sea as far as the aforesaid due north line from McDougall Pass. 1958, c. 9, s. 5.

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NORTHERN INLAND WATERS ACT

An Act respecting inland water resources in the Yukon Territory and Northwest Territories

[1969-70, c. 66]

SHORT TITLE

1. This Act may be cited as the *Northern Inland Waters Act*. Short title

INTERPRETATION

2. (1) In this Act Definitions
- “appropriate board” means, in relation to waters in the Yukon Territory, the Yukon Territory Water Board and, in relation to waters in the Northwest Territories, the Northwest Territories Water Board; “appropriate board”
- “board” means the Yukon Territory Water Board established by section 7 or the Northwest Territories Water Board established by that section; “board”
- “domestic use” means the use of waters for household requirements, sanitation and fire prevention, for the watering of domestic animals and poultry and for irrigation of a garden adjoining a dwelling-house that is not ordinarily used in the growth of produce for a market, but does not include the sale or barter of waters for any such use; “domestic use”
- “licence” means a licence for the use of waters issued pursuant to section 10; “licence”
- “licensee” means the holder of a valid and subsisting licence; “licensee”
- “Minister” means the Minister of Indian Affairs and Northern Development; “Minister”
- “territorial lands” means lands in the Northwest Territories or in the Yukon Territory that are vested in Her Majesty in right of Canada or of which the Government of Canada has power to dispose; “territorial lands”
- “Territories” means the Northwest Territories; “Territories”
- “Territory” means the Yukon Territory; “Territory”
- “waste” means “waste”
- (a) any substance that, if added to any waters, would degrade or alter or form part of a process of degradation or alteration of the quality of those waters to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man, and
- (b) any water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural

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state that it would, if added to any waters, degrade or alter or form part of a process of degradation or alteration of the quality of those waters to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man,

and without limiting the generality of the foregoing, includes anything that, for the purposes of the *Canada Water Act*, is deemed to be waste ;

"water management area"

"water management area" means a river basin or other appropriate geographical area established as a water management area by the Governor in Council pursuant to paragraph 26(d) ;

"waters"

"waters" means waters in any river, stream, lake or other body of inland water on the surface or underground in the Yukon Territory and the Northwest Territories.

Diversion and obstruction of water courses

(2) For the purposes of this Act, diversion of waters from a water course, whether the water course is seasonal or otherwise, and obstruction of any such water course shall be deemed to constitute uses of waters.

Application of Act to Her Majesty

(3) Her Majesty in right of Canada is bound by this Act but nothing herein provided shall be deemed to impose or authorize the imposition by regulation of a fee for any licence issued to Her Majesty in right of Canada or for the use of waters pursuant to any such licence.

WATERS VESTED IN CROWN

Vesting

3. (1) Subject to any rights, powers or privileges granted pursuant to the *Dominion Water Power Act* or preserved under that Act and to section 4 of this Act, the property in and the right to the use and flow of all waters are for all purposes vested in Her Majesty in right of Canada.

Use of waters in water management areas

(2) Except as authorized pursuant to the *Dominion Water Power Act* or subsection 39(2) of this Act, and subject to section 4 of this Act, no person shall alter or divert the flow or storage of waters within a water management area or otherwise use waters within any such area except pursuant to a licence held by him or except as authorized by regulations made pursuant to paragraph 26(g).

Requirements of other Acts to be complied with

(3) Except as specifically provided in this or any other Act, neither any provision of this Act or the regulations nor any licence issued pursuant to this Act authorizes the alteration or diversion of the flow or storage of waters within a water management area or any other use of waters within any such area in contravention of any provision of any other Act or any regulation made pursuant to any other Act.

Rights for certain uses preserved

4. This Act does not apply to the use of any waters

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- (a) for domestic purposes by a person owning or occupying lands adjacent to such waters; or
- (b) for the purpose of extinguishing a fire or, on an emergency basis, controlling or preventing a flood;

but where waters are diverted for a purpose described in paragraph (b), the diversion shall be discontinued and, in so far as possible, the original channel conditions restored when the requirement for the diversion has ceased.

5. With the approval of the Governor in Council and subject to any agreement entered into pursuant to section 4 or 9 of the *Canada Water Act*, the Minister may, on behalf of the Government of Canada, enter into an agreement with any one or more provincial governments providing for the management, on a cooperative basis, of any waters situated partially within the Yukon Territory or the Northwest Territories and partially within the province or provinces or flowing between the Territory or Territories and the province or provinces.

Agreements with provinces

DEPOSIT OF WASTE IN WATERS

6. (1) Except in accordance with the conditions of a licence or as authorized by the regulations, no person shall deposit or permit the deposit of waste of any type in any waters or in any place under any conditions where such waste or any other waste that results from the deposit of such waste may enter any waters.

Prohibition

(2) Subsection (1) does not apply to the deposit of waste in waters that form part of a water quality management area designated pursuant to the *Canada Water Act* if the waste so deposited is of a type and quantity and is deposited under conditions authorized by regulations made by the Governor in Council under paragraph 16(2)(a) of that Act with respect to that water quality management area.

Application of subsection (1)

BOARDS ESTABLISHED

7. (1) There shall be two boards to be known as the Yukon Territory Water Board and the Northwest Territories Water Board, each consisting of not less than three and not more than nine members appointed by the Minister.

Establishment of boards

(2) The membership of each board shall include

Membership

- (a) at least one nominee of each of the departments of the Government of Canada that, in the opinion of the Governor in Council, are most directly concerned with management of water resources of the Territory and the Territories; and

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(b) at least three persons named by the Commissioner in Council of the Yukon Territory in the case of the Yukon Territory Water Board and at least three persons named by the Commissioner in Council of the Northwest Territories in the case of the Northwest Territories Water Board.

Chairman and
vice-chairman

(3) The Minister shall designate two of the members of each of the boards to be chairman and vice-chairman respectively of the board of which the persons so designated are members.

Main office

(4) The main office of the Yukon Territory Water Board shall be at the seat of government of the Territory, and the main office of the Northwest Territories Water Board shall be at the seat of government of the Territories.

Staff of boards

8. The Minister shall provide such officers and employees from within the public service of Canada and such professional and technical advisers as are necessary for the proper conduct of the business of the boards.

Objects

9. The objects of the boards are to provide for the conservation, development and utilization of the water resources of the Yukon Territory and the Northwest Territories in a manner that will provide the optimum benefit therefrom for all Canadians and for the residents of the Yukon Territory and the Northwest Territories in particular.

Issue of licences

10. (1) Where an applicant for a licence satisfies the appropriate board that,

(a) in the case of an application made pursuant to subsection 39(2),

(i) the application is for a licence to use a quantity of water within a water management area substantially equivalent to the quantity the applicant was using or was entitled to use within the area immediately prior to the establishment of the area and for the purposes for which he was then using it or was then entitled to use it, and

(ii) any waste produced by the undertaking in association with the operation of which such water is used will be treated and disposed of in a manner that is appropriate for the maintenance of water quality standards prescribed pursuant to paragraph 26(e), and

(b) in the case of any other application,

(i) the proposed use of waters by the applicant will not adversely affect the use of waters within the water management area to which the application

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relates by any licensee who is entitled to precedence over the applicant pursuant to section 22 or by any applicant who, if a licence were issued to him, would be entitled to precedence over the applicant pursuant to that section,

- (ii) appropriate compensation has been or will be paid by the applicant to licensees authorized to use waters within the water management area to which the application relates for a use that, in relation to that water management area, is of lower priority than the proposed use by the applicant and who will be adversely affected by such proposed use,
- (iii) any waste that will be produced by the undertaking in association with the operation of which such waters will be used will be treated and disposed of in a manner that is appropriate for the maintenance of water quality standards prescribed pursuant to paragraph 26(e), and
- (iv) the financial responsibility of the applicant is adequate for the undertaking in association with the operation of which such waters will be used,

the board may, with the approval of the Minister, issue a licence to the applicant, for a term not exceeding twenty-five years, authorizing him, upon payment of water use fees prescribed pursuant to paragraph 28(a) at the times and in the manner prescribed by the regulations, to use waters, in association with the operation of a particular undertaking described in the licence (hereinafter referred to as the "appurtenant undertaking") and in a quantity and at a rate not exceeding that specified in the licence.

(2) A board may attach to any licence issued by it any conditions that it considers appropriate including conditions relating to the manner of use of waters authorized to be used under the licence and conditions based upon water quality standards prescribed pursuant to paragraph 26(e) relating to the quantity and types of waste that may be deposited in any waters by the licensee and the conditions under which any such waste may be so deposited.

Conditions of
licence

(3) A Board may not include

- (a) in any licence issued in respect of any waters that form part of a water quality management area designated pursuant to the *Canada Water Act*, conditions relating to the quantity and types of waste that may be deposited in any such waters or under which any such waste may be so deposited, that vary from any restrictions relating to the deposit of waste prescribed with respect

Conditions
relating to waste

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to those waters by the Governor in Council pursuant to the *Canada Water Act*, or

- (b) in any licence issued in respect of any other water or waters, to which any regulations made by the Governor in Council for the purposes of subsection 33(4) of the *Fisheries Act* are applicable, conditions relating to the quantity and types of waste that may be deposited in any such water or waters or under which any such waste may be so deposited, that vary from any restrictions relating to the deposit of deleterious substances prescribed with respect to such water or waters by those regulations;

and any such conditions included in a licence issued prior to the prescription of any such restrictions shall be deemed, upon such prescription, to be amended to conform thereto.

Application for licence

11. (1) An application for a licence shall be in such form and shall contain such information as is prescribed by the regulations.

Information and studies to be provided to board

(2) The appropriate board shall require an applicant for a licence to provide it with such information and studies concerning the use of waters proposed by the applicant as will enable it to evaluate any qualitative and quantitative effects of the proposed use on the water management area in which the applicant proposes to use such waters.

Board may require security

(3) The appropriate board may require an applicant for a licence to furnish security, in a form and on terms and conditions prescribed by regulations, for the protection of licensees and owners and occupiers of property who, in the opinion of the board, are liable to be adversely affected as a result of the issuance of a licence to the applicant.

Renewal, amendment and cancellation of licence

- 12.** A board may, with the approval of the Minister,
- (a) renew from time to time, for terms not exceeding twenty-five years each, any licence issued by it, either subject to the conditions attached to the licence immediately prior to its renewal or subject to any other conditions that the board is authorized to impose in relation to a new licence;
 - (b) amend, either for a specified term or otherwise, any provision or condition of any licence issued by it
 - (i) on application of the licensee,
 - (ii) where there is a water shortage in the relevant water management area or the water quality standards prescribed in respect of the area are amended, or
 - (iii) in any other case where it appears to the board to be in the public interest; and

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- (c) cancel any licence issued by it where
 - (i) the licensee indicates in writing to the board that he has abandoned or intends to abandon his right to the use of waters under the licence or where the licensee, for three successive years, fails to exercise his right to the use of waters under the licence, or
 - (ii) the licensee fails to comply with any provision or condition of the licence.

13. (1) Any sale or other disposition of any of the right, title and interest of a licensee in an appurtenant undertaking constitutes, without further action by the licensee, an assignment of the licence to the person or persons to whom the sale or other disposition is made if the assignment of such licence was authorized by the appropriate board.

Assignment of licences

(2) The appropriate board shall authorize the assignment of a licence if it is satisfied that the sale or other disposition of any of the right, title and interest of the licensee in the appurtenant undertaking at the time, in the manner and on the terms and conditions agreed to by the licensee would not be likely to result in a contravention of any provision or condition of the licence or of any provision of this Act or the regulations.

Authorization of assignment of licence

(3) Except as provided in this section, a licence is not assignable.

Licence not otherwise assignable

14. A board may, and at the request of the Minister as it considers appropriate concerning any matter in respect of which the Governor in Council is authorized by section 26 or 27 to make regulations or orders.

Recommendations to Minister

PUBLIC HEARINGS AND PROCEDURE

15. (1) A public hearing may be held by a board in connection with any matter relating to its objects where the board is satisfied that such a hearing would be in the public interest.

Hearings

- (2)** A public hearing shall be held by a board
 - (a)** in connection with each application for a licence or for renewal of a licence;
 - (b)** in connection with each application pursuant to section 24 for permission to enter upon use, occupy, take and acquire any lands or any interest therein; and
 - (c)** where it has under consideration the amendment or cancellation of a licence;

Idem

but this subsection does not apply where the applicant in a case described in paragraph (a) or (b), or the licensee in a case described in paragraph (c), consents in writing to the disposi-

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tion of the matter without a public hearing and, after publication of notice of a public hearing in connection with the matter pursuant to section 16, the board receives no notice within ten days prior to the date of the proposed hearing that any person intends to appear and make representations in connection with the matter or, where the board has under consideration the amendment of a licence, the board, with the consent of the Minister, declares the amendment to be required on an emergency basis.

Place of hearing (3) A public hearing under this section shall be held at such place within

(a) the Yukon Territory, in the case of the Yukon Territory Water Board, or

(b) the Northwest Territories, in the case of the Northwest Territories Water Board,

as the board considers appropriate and may be adjourned by the board from time to time and from place to place within Canada.

Powers **16.** A board has, in respect of any public hearing under this section, all the powers of a commissioner appointed under Part I of the *Inquiries Act*.

Public notice **17.** The appropriate board shall require an applicant for a licence, for the amendment or renewal of a licence or for authorization to assign a licence to give notice of such application by publication thereof in the *Canada Gazette* and in such one or more newspapers, including at least one that is in circulation within the area affected, or in such other manner as the board considers appropriate; and the board shall itself give notice of a public hearing to be held by it by publication thereof in the *Canada Gazette* and in such other manner as it considers appropriate.

Rules **18.** A board may make rules respecting

- (a) its sittings;
- (b) the procedure for making representations and complaints to it and in the conduct of hearings before it and generally the manner of conducting any business before it; and
- (c) generally, the carrying on of its work, the management of its internal affairs and the duties of the officers and employees and the professional and technical advisers provided to it by the Minister.

WATER USE REGISTER

Water use register **19. (1)** Each board shall maintain at its main office a register in a form prescribed by the regulations in which shall

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be entered, with respect to each application for a licence received by the board and with respect to each licence issued by it, such information as is prescribed by the regulations.

(2) Each register maintained pursuant to this section shall be open to inspection, during normal business hours of the appropriate board, by any person on payment of the fee prescribed by the regulations.

Register to be open to inspection

DECISIONS AND ORDERS

20. Except as provided in this Act, every decision or order of a board is final and conclusive.

Decisions and orders final

21. (1) An appeal lies from a decision or order of a board to the Supreme Court of Canada upon a question of law, or a question of jurisdiction, upon leave therefor being obtained from the Supreme Court on application made within one month after the making of the decision or order sought to be appealed from or within such further time as the Supreme Court or a judge thereof under special circumstances allows.

Appeal to Supreme Court

(2) No appeal lies after leave therefor has been obtained under subsection (1) unless it is entered in the Supreme Court within sixty days from the making of the order granting leave to appeal.

Entry of appeal

(3) The Exchequer Court of Canada has exclusive original jurisdiction to hear and determine every application for a writ of *certiorari*, prohibition or *mandamus* or for an injunction in relation to any decision or order of a board or any proceedings before a board.

Jurisdiction as to prerogative writs

(4) A decision or order of a board is not subject to review or to be restrained, removed or set aside by *certiorari*, prohibition, *mandamus* or injunction or any other process or proceeding in the Exchequer Court on the ground that

Limitations

(a) a question of law or fact was erroneously decided by the board;

(b) the board had no jurisdiction to entertain the proceedings in which the decision or order was made or to make the decision or order.

(5) Any minute or other record of a board or any document issued by a board in the form of a decision or order shall, if it relates to the issue, renewal, amendment or cancellation of a licence, be deemed for the purposes of section 20 and this section to be a decision or order of the board.

Decision or order defined

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RIGHTS AND DUTIES OF LICENSEES

Precedence of
use among
licensees

22. (1) A licensee who is authorized to use waters in a water management area for a use that has been prescribed by the Governor in Council, in respect of that area, to be of a higher priority than the use for which another licensee was authorized to use waters in the same area, is entitled to the use of the volume of waters specified in his licence at the full rate specified therein in precedence to any use of waters by the other licensee.

Idem

(2) Where two licensees are authorized to use waters in the same water management area for the same use or for uses that have been prescribed by the Governor in Council, in respect of that area, to be of the same priority, the licensee who first filed an application with the appropriate board in the form and containing the information required by the regulations is entitled to the use of the volume of waters specified in his licence at the full rate specified therein in precedence to any use of waters by the other licensee.

Right of licensee
to compensation
in certain cases

23. Where a licensee who is authorized to use waters in a water management area is adversely affected by the use of waters in the same area by a licensee

(a) to whom a licence was issued after the issue of a licence to the licensee so affected, and

(b) who is, by virtue of subsection 22(1), entitled to precedence in the use of waters over the licensee so affected, the licensee so affected is entitled to be compensated by such other licensee for any loss incurred by him as a result thereof and may sue for and recover such compensation in any court of competent jurisdiction.

Permission of
Minister to
expropriate

24. (1) A licensee may apply to the appropriate board for permission from the Minister to enter upon, use, occupy, take and acquire any lands or any interest therein, and where the Minister, on the recommendation of the appropriate board, is satisfied that

(a) such lands or interest are reasonably required by such licensee for use in relation to the appurtenant undertaking, and

(b) the licensee has made reasonable efforts to acquire such lands or interest and has been unable to do so and it is in the public interest that such permission be granted to him,

the Minister may, in writing, grant such permission; and thereupon sections 156 to 184 of the *Railway Act*, insofar as they are reasonably applicable and not inconsistent with this Act, apply.

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(2) In applying sections 156 to 184 of the *Railway Act* for the purposes of this Act, the term "the licensee" shall be substituted for the term "the company", the date permission is granted by the Minister pursuant to subsection (1) of this section shall be substituted for the date of deposit of the plan, profile and book of reference in subsections 162(2) and (3) of the *Railway Act* and the reference to enforcement by the Canadian Transport Commission in section 163 of that Act shall be read as a reference to enforcement by the appropriate board as if the undertaking referred to therein were a condition of the licensee's licence.

Modification of
Railway Act
provisions

(3) A copy of the document evidencing permission granted by the Minister pursuant to subsection (1), certified as such by the chairman or vice-chairman of the appropriate board, shall be deposited with the registrar or registrars of titles for the land registration district or districts in which the lands affected by the permission are situated.

Copy of docu-
ment evidencing
permission to be
deposited

(4) The provisions of section 34 of the *National Energy Board Act* relating to plans, profiles and books of reference deposited with registrars of deeds pursuant to that Act and the duties of such registrars with regard thereto, insofar as they are reasonably applicable and not inconsistent with this Act, apply in respect of copies deposited pursuant to subsection (3).

Duties of
registrars of
titles

(5) This section does not apply or extend to

Exceptions

- (a) territorial lands; or
- (b) lands belonging to any railway company that are used or required by such company for the purposes of its railway.

25. Nothing in this Act or the regulations or in a licence issued pursuant to this Act constitutes a defence to a claim for loss or damage sustained by any person by reason of the construction of any works forming part of an appurtenant undertaking or by reason of the operation of any such undertaking.

Rights of
persons against
licensee not
affected

REGULATIONS, ORDERS AND FEES

26. The Governor in Council may make regulations

Regulations

- (a) setting forth the procedure to be followed on an application to a board for a licence, for the amendment or renewal of a licence or for authorization to assign a licence;
- (b) setting forth information to be supplied to a board in connection with any application described in paragraph (a) and prescribing the form in which all or any of that information is to be submitted;

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- (c) prescribing forms, in addition to any forms prescribed under paragraph (b), to be used in proceedings under this Act;
- (d) on the recommendation of the Minister and the appropriate board, classifying uses of waters in the Yukon Territory and the Northwest Territories, establishing water management areas consisting of river basins or other appropriate geographical areas and providing for the priorities among the classes of use of the waters within such water management areas;
- (e) prescribing water quality standards for water management areas that are not, or are not included in whole or in part within, a water quality management area designated pursuant to the *Canada Water Act*;
- (f) prescribing the quantities of waste, if any, that may be deposited other than in accordance with the conditions of a licence in any waters or in any waters within a water management area, and prescribing the conditions under which any such waste may be so deposited;
- (g) authorizing the use without a licence of waters within a water management area
 - (i) for a use, uses or class of uses specified in the regulations,
 - (ii) in a quantity or at a rate not in excess of a quantity or rate specified in the regulations, or
 - (iii) for a use, uses or class of uses specified in the regulations and in a quantity or at a rate not in excess of a quantity or rate specified therein;
- (h) requiring licensees to maintain such books and records as he deems necessary for the proper enforcement of this Act;
- (i) requiring licensees who deposit waste in any waters to submit test portions of such waste to the appropriate board for analysis;
- (j) requiring licensees to submit to the appropriate board on a regular monthly, quarterly, semi-annual or annual basis, as he deems appropriate, reports containing such information in respect of any of their operations to which this Act applies as is specified in the regulations;
- (k) setting forth information to be supplied to the appropriate board in connection with an application for permission from the Minister to enter upon, use, occupy, take and acquire any lands or any interest therein;
- (l) prescribing the form in which security may be furnished under subsection 11(3) and the terms and conditions on which any such security shall be furnished;

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- (m) prescribing the form of the register to be maintained by each board pursuant to section 19 and the information to be entered therein;
- (n) respecting the method of analysis of test portions of waste;
- (o) respecting the powers and duties of inspectors and analysts designated pursuant to section 29, the taking of samples and the making of analyses for the purposes of this Act;
- (p) prescribing the time at which and the manner in which fees for the use of waters shall be paid; and
- (q) generally, for carrying out the purposes and provisions of this Act.

27. (1) The Governor in Council may, by order, reserve from disposition under any enactment relating to the disposition of territorial lands, either for a specified period or otherwise, all or any interests in any territorial lands under the control, management and administration of the Minister where such interests are in his opinion required

Reservation of
lands from
disposition

- (a) for the protection of any water resource; or
- (b) in connection with any undertaking the development or operation of which is, in his opinion, in the public interest and would require the use of those interests in lands and of waters adjacent to such lands.

(2) The Governor in Council may, by order, direct the appropriate board, either for a specified period or otherwise, not to issue any licences relating to the use of any waters specified in the order

Reservation of
water rights

- (a) to enable comprehensive evaluation and planning to be carried out with respect to those waters; or
- (b) where the use and flow of such waters are required in connection with a particular undertaking the development of which is, in his opinion, in the public interest.

(3) A disposition of all or any interest in any territorial lands in contravention of an order made pursuant to subsection (1), or a licence issued in contravention of an order made pursuant to subsection (2) is of no force or effect.

Effect of
disposition in
contravention of
order

- 28.** The Governor in Council may prescribe fees to be paid
- (a) for the use of waters pursuant to a licence,
 - (b) on the filing of any application with a board, and
 - (c) for inspection of a register maintained pursuant to section 19,

Fees

and the amount of any fees prescribed pursuant to paragraph (a) may vary according to the use of waters authorized by the licence, according to the quantity of waters thereby author-

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ized to be used or according to both the use and the quantity so authorized.

INSPECTORS AND ANALYSTS

Inspectors and
analysts

29. The Minister may designate any qualified person as an inspector or analyst for the purposes of this Act.

Powers of
inspectors

30. (1) An inspector may at any reasonable time

- (a) enter any area, place or premises within a water management area, other than a private dwelling place or any part of any such area, place or premises that is designed to be used and is being used as a permanent or temporary private dwelling place, in which he reasonably believes
 - (i) the construction of any work or works that, upon their completion, will form part of an undertaking the operation of which will require the use of waters is being carried on, or the alteration or extension of a work or works that form part of such an undertaking is being carried on, or
 - (ii) waters are being used other than by a licensee or pursuant to subsection 39(2) or other than as authorized by regulations made pursuant to paragraph 26(g), or are being used by a licensee in a quantity or at a rate in excess of, or for a purpose other than, that authorized under the licence held by him;
- (b) conduct such inspections of the work or works described in subparagraph (a)(i) as he deems necessary in order to determine whether any plans and specifications forming part of any application for a licence filed with a board by the person constructing such work or works are being complied with or whether any alteration or extension of such work or works will or is likely to result in a contravention of any provision or condition of a licence issued in association with an undertaking of which such work or works form a part;
- (c) examine any books, records or documents in such area, place or premises that on reasonable grounds he believes contain any information relating to the use of water or any process that is being or has been carried on therein that involves the use of water or result or is likely to result in waste and make copies thereof or extracts therefrom; and
- (d) enter any area, place or premises other than a private dwelling place or any part of any such area, place or premises that is designed to be used and is being used as a permanent or temporary private dwelling place, in

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which he reasonably believes there is being or has been carried out any process that may result in waste, or there is any waste, that may be or has been added to waters, and examine any waste found therein in bulk or open any container found therein that he has reason to believe contains any waste and take samples thereof.

(2) An inspector shall be furnished with a certificate of his designation as an inspector and on entering any area, place or premises referred to in subsection (1) shall, if so required, produce the certificate to the person in charge thereof.

Certificate of designation

(3) The owner or person in charge of any area, place or premises referred to in subsection (1) and every person found therein shall give an inspector all reasonable assistance in his power to enable the inspector to carry out his duties and functions under this Act and shall furnish him with such information with respect to the administration of this Act as he may reasonably require.

Assistance to inspector

31. (1) No person shall obstruct or hinder an inspector in the carrying out of his duties or functions under this Act.

Obstruction of inspector

(2) No person shall knowingly make a false or misleading statement, either verbally or in writing, to an inspector or other person engaged in carrying out his duties or functions under this Act.

False statements

OFFENCES

32. (1) Any person who

Offences and punishment

(a) violates subsection 3(2) or section 6, or

(b) being a licensee, uses waters in a quantity or at a rate in excess of, or for a purpose other than, that authorized under the licence held by him,

is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

(2) Where an offence under this section is committed on more than one day, it shall be deemed to be a separate offence for each day on which the offence is committed or continued.

Continuing offences

33. Any person who

Offences and punishment

(a) violates section 31 or any regulation made under any of paragraphs 26(h), (i) and (j), or

(b) wilfully obstructs or otherwise interferes with a licensee or any person acting on his behalf in the exercise of any rights granted to him under this Act

is guilty of an offence punishable on summary conviction.

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Order to refrain **34.** Where a person is convicted of an offence under section 32, the court may, in addition to any punishment it may impose, order that person to refrain from committing any further such offence or to cease to carry on any activity specified in the order the carrying on of which, in the opinion of the court, will or is likely to result in the committing of any further such offence.

Proof of offence **35.** In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without his knowledge or consent and that he exercised all due diligence to prevent its commission.

Time limited for proceedings **36.** Proceedings in respect of an offence under this Act may be instituted at any time within two years after the time when the subject-matter of the proceedings arose.

Action to enjoin not prejudiced by prosecution **37. (1)** Notwithstanding that a prosecution has been instituted in respect of an offence under section 32, the Attorney General of Canada may commence and maintain proceedings to enjoin conduct that constitutes an offence thereunder.

Civil remedy not affected **(2)** No civil remedy for any act or omission is suspended or affected by reason that the act or omission is an offence under this Act.

EVIDENCE

Certificate of analyst **38. (1)** Subject to this section, a certificate of an analyst stating that he has analyzed or examined a sample submitted to him by an inspector and stating the result of his analysis or examination is admissible in evidence in any prosecution for a violation of this Act and in the absence of evidence to the contrary is proof of the statements contained in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate.

Attendance of analyst **(2)** The party against whom a certificate of an analyst is produced pursuant to subsection (1) may, with leave of the court, require the attendance of the analyst for the purposes of cross-examination.

Notice **(3)** No certificate shall be received in evidence pursuant to subsection (1) unless the party intending to produce it has given to the party against whom it is intended to be produced reasonable notice of such intention together with a copy of the certificate.

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TRANSITIONAL AND COMING INTO FORCE

39. (1) Sections 53 to 68 of the *Yukon Placer Mining Act* and section 121 of the *Yukon Quartz Mining Act* cease to be of any force or effect within a water management area upon the establishment of such area by the Governor in Council pursuant to paragraph 26(d).

Application of
*Yukon Placer
Mining Act* and
*Yukon Quartz
Mining Act*
provisions

(2) Where, immediately prior to the establishment of a water management area, a person was using waters or was entitled to use waters within the area so established, whether pursuant to a grant of a water right under the *Yukon Placer Mining Act* or otherwise, in a quantity or for a purpose such that, if he used waters in that quantity or for that purpose after the establishment of the area, such use would constitute a violation of subsection 3(2) of this Act if he were not a licensee, he may, notwithstanding any other provision of this Act, use waters in a quantity substantially equivalent to the quantity he was using or was entitled to use prior to the establishment of the area for the purpose for which he was then using or entitled to use waters until the ninetieth day after the establishment of the area or, if on or before that day he has filed an application for a licence to continue such use with the appropriate board, until the day on which that application is finally disposed of by the board; and applications to continue such uses shall be dealt with by the boards in priority to all other applications received by them.

Use of water by
certain persons
authorized

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TERRITORIAL LANDS ACT

An Act respecting Crown lands in the Yukon Territory and the Northwest Territories

SHORT TITLE

1. This Act may be cited as the *Territorial Lands Act*. R.S., c. 263, s. 1. Short title

INTERPRETATION

2. In this Act Definitions

“Crown” means Her Majesty in right of Canada ; “Crown”

“dues” means all ground rents, royalties, duties, fees, rates, charges or other moneys payable by any person to the Crown under and by virtue of a lease, licence or permit ; “dues”

“grant” means letters patent under the Great Seal, a notification and any other instrument by which territorial lands may be granted in fee simple or for an equivalent estate ; “grant”

“judge of the Court” means, in relation to any matter arising in the Northwest Territories, a judge of the Territorial Court, and, in relation to any matter arising in the Yukon Territory, a judge of the Territorial Court of the Yukon Territory ; “judge of the Court”

“land” includes mines, minerals, easements, servitudes and all other interests in real property ; “land”

“Minister” means the Minister of Indian Affairs and Northern Development ; “Minister”

“notification” means a direction in a form prescribed by the Governor in Council pursuant to paragraph 19(j) and issued pursuant to subsection 5(1) ; “notification”

“permit” means a valid and subsisting permit issued under this Act ; “permit”

“territorial lands” means lands in the Northwest Territories or in the Yukon Territory that are vested in the Crown or of which the Government of Canada has power to dispose ; “territorial lands”

“timber” means trees standing or fallen, logs and bolts, cants, boards and lumber, and any other sawn or shaped product of trees. R.S., c. 263, s. 2 ; 1953-54, c. 4, s. 12 ; 1957, c. 36, s. 1 ; 1966-67, c. 25, s. 40 ; 1967-68, c. 32, s. 1. “timber”

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APPLICATION

- Application 3. (1) Subject to subsection (2), this Act applies only to territorial lands that are under the control, management and administration of the Minister.
- Idem (2) Sections 5, 8 to 12 and paragraph 19(j) apply to territorial lands the right to the beneficial use or to the proceeds of which is appropriated to the Yukon Territory or the Northwest Territories by section 45 of the *Yukon Act* or section 46 of the *Northwest Territories Act*, as the case may be.
- Idem (3) Nothing in this Act shall be construed as limiting the operation of the *Yukon Quartz Mining Act*, the *Yukon Placer Mining Act*, the *Dominion Water Power Act* or the *National Parks Act, 1967-68, c. 32, s. 2*.

SALE OR LEASE OF TERRITORIAL LANDS

- Authorizing sale, lease, etc. 4. Subject to this Act, the Governor in Council may authorize the sale, lease or other disposition of territorial lands and may make regulations authorizing the Minister to sell, lease or otherwise dispose of territorial lands subject to such limitations and conditions as the Governor in Council may prescribe. R.S., c. 263, s. 4.
- Issue of notification 5. (1) A notification may be issued to a registrar directing him to issue a certificate of title to a person named therein in respect of territorial lands described therein that are within the registration district administered by the registrar.
- Execution of notification (2) A notification pursuant to subsection (1) shall be signed and issued,
(a) in the case of territorial lands described in subsection 3(1), by the Minister, the Deputy Minister or any other officer of his Department authorized in writing for that purpose by the Minister; and
(b) in the case of territorial lands described in subsection 3(2), by the Commissioner of the Yukon Territory if the lands are in the Yukon Territory or by the Commissioner of the Northwest Territories if the lands are in the Northwest Territories.
- Effect of issue of notification (3) The issue of a notification pursuant to subsection (1) has like force and effect as a grant of territorial land made by letters patent under the Great Seal.
- Notification to set out nature of grant (4) A notification shall set out the nature of the estate thereby granted and any easements, rights or other interests excepted or reserved therefrom.

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- (5) In this section the expressions "registrar" and "certificate of title" have the meanings assigned by the *Land Titles Act*. 1967-68, c. 32, s. 3. Interpretation
6. No territorial lands suitable for muskrat farming shall be sold. R.S., c. 263, s. 5; 1955, c. 17, s. 1. Prohibition
7. (1) Not more than one hundred and sixty acres of territorial lands may be sold to any one person without the approval of the Governor in Council. Limitation on sale
- (2) Subject to subsection (3), not more than six hundred and forty acres of territorial lands may be leased to any one person without the approval of the Governor in Council. Limitation on lease
- (3) Where territorial lands are hay lands or lands suitable for grazing or muskrat farming, not more than six thousand four hundred acres may be leased to any one person without the approval of the Governor in Council. R.S., c. 263, s. 6. Other limitation

MINING RIGHTS

8. The Governor in Council may make regulations for the leasing of mining rights in, under or upon territorial lands and the payment of royalties therefor, but such regulations shall provide for the protection of and compensation to the holders of surface rights. R.S., c. 263, s. 7. Leasing of mining rights

RESERVATION FROM GRANTS

9. Unless otherwise ordered by the Governor in Council, a strip of land one hundred feet in width, measured from ordinary high water mark or from the boundary line, as the case may be, shall be deemed to be reserved to the Crown out of every grant of territorial lands, where the land extends Reservation
- (a) to the sea or an inlet thereof;
 - (b) to the shore of any navigable water or an inlet thereof;
 - or
 - (c) to the boundary line between the Yukon Territory and Alaska, or between the Yukon Territory and the Northwest Territories, or between the Yukon Territory or the Northwest Territories and the Province of Manitoba, Saskatchewan, Alberta, or British Columbia. R.S., c. 263, s. 8.
10. Unless the grant contains a provision to the contrary, the bed, below ordinary high water mark, of a body of water shall be deemed to be reserved to the Crown out of every grant of territorial lands where the lands border a body of water. R.S., c. 263, s. 9. Reservation of bed of body of water

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Other reservations

11. There shall be deemed to be reserved to the Crown out of every grant of territorial lands

- (a) all mines and minerals whether solid, liquid or gaseous that may be found to exist within, upon or under such lands, together with the right to work the same and for this purpose to enter upon, use and occupy the said lands or so much thereof and to such extent as may be necessary for the working and extraction of the said minerals; and
- (b) all rights of fishery and fishing and occupation in connection therewith upon or around or adjacent to such lands. R.S., c. 263, s. 10.

Grant does not convey water rights

12. Unless the grant or other document establishing a grant, lease or other disposition of territorial lands expressly states the contrary, no grant, lease or other disposition of territorial lands conveys any exclusive right, privilege, property or interest with respect to any lake, river, stream or other body of water, within, bordering or passing through the lands. R.S., c 263, s. 11.

TIMBER

Cutting timber

13. No person shall cut timber on territorial lands unless he is the holder of a permit. R.S., c. 263, s. 12.

Timber regulation

14. The Governor in Council may make regulations

- (a) respecting the issue of permits to cut timber and prescribing the terms and conditions thereof, including the payment of ground rent, and exempting any person or class of persons from the provisions of section 13;
- (b) providing for the suspension or cancellation of permits for violation of any of the terms or conditions thereof or for violation of any provision of this Act or the regulations;
- (c) prescribing fees for the issue of permits and prescribing the dues to be paid in respect of timber cut pursuant to a permit;
- (d) providing for the making of returns by holders of permits;
- (e) providing for the recovery of dues including the taking of security therefor and the seizure forfeiture and sale of timber; and
- (f) providing for the seizure, forfeiture and sale of timber unlawfully cut on territorial lands. R.S., c. 263, s. 13.

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SLIDES, STREAMS AND LAKE FRONTS

15. Unless the grant or other document establishing a grant, lease or other disposition of territorial lands expressly states the contrary, no grant, lease or other disposition of territorial lands Works for the movement of timber

- (a) conveys any right, title or interest in or to any slide, dam, pier, boom or other work constructed, for the purpose of facilitating the movement of timber, prior to the date of the grant, lease or other disposition of land;
- (b) affects the unimpeded right to use or repair the works referred to in paragraph (a); or
- (c) affects the unimpeded right to use, for the purpose of facilitating the movement of timber, all streams, lakes, bodies of water, portage roads or trails past rapids, falls or other natural obstacles or connecting bodies of water, or any land that has to be used in connection with the foregoing. R.S., c. 263, s. 14.

TRESPASS ON TERRITORIAL LANDS

16. (1) Where under this Act the right of any person to use, possess or occupy territorial lands has been forfeited or where, in the opinion of the Minister, a person is wrongfully or without lawful authority, using, possessing or occupying territorial lands and he continues to use, possess or occupy or fails to deliver up possession of the lands, an officer of the Department of Indian Affairs and Northern Development authorized by the Minister for that purpose may apply to a judge of the Court for a summons directed to such person calling upon such person Summons to vacate or show cause

- (a) to forthwith vacate or abandon and cease using, possessing or occupying such lands; or
- (b) within thirty days after service of the summons upon him to show cause why an order or warrant should not be made for his removal from the said lands.

(2) Where a summons has been served under subsection (1) and within thirty days from the service thereof the person named in the summons has not removed from, vacated or ceased using, possessing or occupying the said lands or has not shown cause why he should do so, a judge of the Court may make an order or warrant for that person's summary removal from the lands. Warrant for removal

(3) A warrant made under subsection (2) shall be executed by a sheriff, bailiff, constable or other person to whom it is delivered for that purpose and he has all the powers, rights, Persons executing warrant

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immunities and privileges enjoyed by a sheriff, constable or other peace officer in the execution of his duty.

Execution of
warrant

(4) A person to whom an order or warrant is addressed shall forthwith remove the person named therein from such lands and all members of his family, employees, servants, labourers, tenants, or other persons employed by or living with such person or his tenants.

Service of
summons or
warrant

(5) Service of a summons or warrant under this section shall be made by leaving a copy with an adult person found on the said lands and by posting up another copy in a conspicuous place on the lands, or where no adult person is found on the lands, by posting up copies in two conspicuous places thereon. R.S., c. 263, s. 15; 1957, c. 36, s. 2; 1966-67, c. 25, s. 40.

Offence and
penalty for
trespassing

17. A person who remains on territorial lands or returns thereto or assumes any possession or occupancy thereof after having been ordered to vacate them under section 16 or after having been removed therefrom under that section is guilty of an offence and is liable upon summary conviction to a fine of not more than three hundred dollars or to imprisonment for a term not exceeding six months, or to both. R.S., c. 263, s. 16.

Appeal

18. The order or judgment of a judge of the Court in any action or proceedings under this Act is subject to an appeal by a party to such action or proceedings in the same manner as any other order or judgment of a judge of the Court. 1957, c. 36, s. 3.

POWERS OF THE GOVERNOR IN COUNCIL

Powers of
Governor in
Council

19. The Governor in Council may
- (a) upon setting forth the reasons for withdrawal in the order, order the withdrawal of any tract or tracts of territorial lands from disposal under this Act;
 - (b) set apart and appropriate territorial lands for the sites of places of public worship, burial grounds, schools, market places, gaols, court houses, town halls, public parks or gardens, hospitals, harbours, landings, bridge sites, airports, landing fields, railway stations, town-sites, historic sites or for other public purposes and, at any time before the issue of a grant, alter or revoke such appropriations;
 - (c) order that grants or leases for a nominal consideration be made of the lands appropriated under paragraph (b) and that there be expressed in any grant or lease the

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- trusts and uses to which the territorial lands granted or leased thereby are subject ;
- (d) set apart and appropriate such areas or lands as may be necessary to enable the Government of Canada to fulfil its obligations under treaties with the Indians and to make free grants or leases for such purposes, and for any other purpose that he may consider to be conducive to the welfare of the Indians ;
 - (e) set apart and appropriate territorial lands for use as forest experimental areas, national forests, game preserves, game sanctuaries, bird sanctuaries, public shooting grounds, public resorts or for any other similar public purpose.
 - (f) authorize the acquisition by any railway, power company or pipe line company, upon and subject to such terms and conditions as may be deemed proper, of a right-of-way for a road bed, for transmission lines, or for pipe lines through territorial lands together with such other territorial lands as may be deemed necessary for stations, station grounds, workshops, buildings, yards, pumps, tanks, reservoirs or other appurtenances in connection therewith ;
 - (g) divide territorial lands into mining districts, land districts and timber districts ;
 - (h) make regulations or orders with respect to any question affecting territorial lands under which persons designated in the regulations or orders may inquire into a question affecting territorial lands and may, for the purposes of such inquiry, summon and bring before them any person whose attendance they consider necessary to the inquiry, examine such person under oath, compel the production of documents and do all things necessary to provide a full and proper inquiry ;
 - (i) prescribe a tariff of fees for copies of maps, plans, field notes, documents, papers and other records pertaining to territorial lands, and for the preparation of documents evidencing a sale, lease or other disposition of territorial lands and for the registration of any documents pertaining to territorial lands ;
 - (j) prescribe the form of the notification that may be issued pursuant to section 5 and the fee for the issue thereof ; and
 - (k) make such orders and regulations as are deemed necessary to carry out the purposes and provisions of this Act. R.S., c. 263, s. 18 ; 1967-68, c. 32, s. 4.

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GENERAL

- Effect of receipt** **20.** A receipt for payment made upon the filing of an application to purchase or lease land, does not entitle the person making the payment to take, occupy or use the land described in the receipt. R.S., c. 263, s. 19.
- Execution of documents** **21.** Any lease, agreement, licence, permit, or notice of cancellation issued or made pursuant to this Act and any consent to any assignment of any such lease, agreement, licence or permit may be executed on behalf of the Crown by the Minister, the Deputy Minister or by any other officer of the Department authorized in writing for the purpose by the Minister. R.S., c. 263, s. 20.
- Interest** **22.** Whenever interest is payable under or by virtue of this Act or for or on account of any claim, matter or thing arising under any provision of this Act, the rate of interest shall be five per cent per annum, whether that interest is payable under the terms of any sealed or unsealed instrument or not. R.S., c. 263, s. 21.
- Forms, etc.** **23.** The Minister may prescribe forms of leases, agreements of sale, licences and other documents required for use under this Act, but not including instruments issued under the Great Seal. R.S., c. 263, s. 22.
- Crown employees** **24.** (1) No officer or employee of or under the Government of Canada shall, directly or indirectly, in his own name or in that of any other person, purchase or acquire any territorial land or any interest therein, nor shall he be interested as shareholder or otherwise in any corporation or company purchasing or acquiring such lands or any interest therein except by or under authority of an order of the Governor in Council.
- Liable to dismissal** **(2)** Every person who violates this section is liable to summary dismissal on the order of the Minister, but his dismissal does not affect the right that any person may have to bring against him any civil or criminal action. R.S. c. 263, s. 23.
- Offences and penalties** **25.** Every person who violates any provision of the Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding three months, or to both, and every person who unlawfully cuts timber on territorial lands, in addition to any other penalty, is liable to a penalty not exceeding three dollars in respect of each tree unlawfully cut. R.S., c. 263, s. 24.

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YUKON PLACER MINING ACT

An Act respecting placer mining in the Yukon Territory

SHORT TITLE

1. This Act may be cited as the *Yukon Placer Mining Act*. Short title
R.S., c. 300, s. 1.

INTERPRETATION

2. (1) In this Act
- Definitions
- “base line” of a creek or river means a traverse line following the general direction of the centre bottom lands of the valley of the creek or river, surveyed and established under the direction and with the approval of the Commissioner; “base line”
- “claim” means any parcel of land located or granted for placer mining, and “mining property” includes besides claims, any ditches or water rights used for mining thereon, and all other things belonging thereto or used in the working thereof for mining purposes; “claim” “mining property”
- “Commissioner”, “Council” and “Commissioner in Council”, respectively, have the same meaning as they have in the *Yukon Act*; “Commissioner”, etc.
- “creek” means all natural watercourses, whether usually containing water or not; and that portion of any stream below the point where it enters the valley of the parent stream; but does not include streams that may be considered rivers under the dredging regulations, that is, streams having an average width of one hundred and fifty feet; “creek”
- “ditch” includes a flume, pipe, race or other artificial means for conducting water by its own weight, to be used for mining purposes; “ditch”
- “legal post” means a stake having a diameter throughout of not less than five inches, standing not less than four feet above the ground and flatted on two sides for at least one foot from the top, each of the sides so flatted measuring at least four inches across the face, and includes also any stump, or tree cut off and flatted or faced to the aforesaid height and size; “legal post”
- “mine” means any natural stratum or bed of earth, soil, gravel or cement, mined for gold or other precious minerals or stones; “mine”
- “mining” or “placer mining” includes every mode and method of working whatever whereby earth, soil, gravel or “mining” and “placer mining”

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cement may be removed, washed, shifted or refined or otherwise dealt with, for the purpose of obtaining gold or such other minerals or stones, but does not include the working of rock *in situ*;

"mining inspector" "mining inspector" means a mining inspector appointed under this Act and acting within the limits of his jurisdiction;

"mining recorder" "mining recorder" means a mining recorder appointed under this Act and acting within the limits of his jurisdiction;

"Minister" "Minister" means the Minister of Indian Affairs and Northern Development;

"Territory" "Territory" means the Yukon Territory.

Right of Commissioner to construct roads (2) Nothing herein contained shall be construed to limit the right of the Commissioner, from time to time, to lay out public roads across, through, along or under any ditch, water privilege or claim, without compensation.

Application of Act to hydraulic mining lands (3) Notwithstanding anything in this Act, its provisions do not apply to any lands demised or leased for hydraulic mining purposes by any lease granted before the 1st day of August 1906 that has been cancelled before that day or that is thereafter cancelled by direction of the Minister or under an order of the Governor in Council, until such lands have been brought under such provisions by order of the Governor in Council.

Regulations as to dredging lenses (4) Nothing in this Act prevents the enactment by the Governor in Council of regulations under which dredging leases may be issued of the whole of the bed of any river in the Territory. R.S., c. 300, s. 2; 1953-54, c. 4, s. 12; 1966-67, c. 25, s. 40.

Mining officials 3. Mining recorders, mining inspectors, deputy mining recorders and deputy mining inspectors shall be appointed, in the manner authorized by law, for the purpose of carrying out this Act. R.S., c. 300, s. 3.

Mining districts 4. The Commissioner may, by proclamation published in the *Yukon Gazette*, divide the territory into districts to be known as mining districts, and may, as occasion requires, change the boundaries of such districts. R.S., c. 300, s. 4.

Jurisdiction of Commissioner 5. The Commissioner possesses all the powers and authority of a mining recorder and a mining inspector. R.S., c. 300, s. 5.

Mining recorder 6. A mining recorder shall be appointed in each mining district, and within such district he possesses all the powers and authority of a mining inspector. R.S., c. 300, s. 6.

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7. (1) Every mining recorder shall keep the following books, to be used for placer mining entries: Books kept by
mining recorder

- (a) record of applications;
- (b) record of refused applications;
- (c) record book;
- (d) record of abandonments; and
- (e) record of documents received;

and he shall record all documents relating to mining property that are brought to him for record, and file all documents relating to such claims that are brought to him to be filed.

(2) Where a caveat is filed against any claim, the caveat lapses unless before the expiration of one month from the receipt thereof by the mining recorder proper proceedings in a court of competent jurisdiction have been taken to establish the caveator's title to the interests specified in the caveat. Filing of caveat

(3) A caveat is any instrument claiming any interest whatever in the claim with reference to which it is filed, but does not include any instrument creating any sale, mortgage, or other disposition of the property. R.S., c. 300, s. 7. "Caveat"

8. Every entry made in any of the mining recorder's books shall show the date upon which the entry is made. R.S., c. 300, s. 8. Date of entry

9. All books of record and documents filed shall, during office hours, be open to public inspection free of charge. R.S., c. 300, s. 9. Books open to
public

10. Every copy of, or extract from, any entry in any of the said books, or of any document filed in the mining recorder's office, certified by the mining recorder to be a true copy or extract, shall be received in any court as evidence of the matters therein contained. R.S., c. 300, s. 10. Certified copies
as evidence

11. Before issuing any grant, or making any entry in any book of record, or filing any document, or making any copy or extract therefrom, the mining recorder shall collect the fees payable in respect thereof, as set out in Schedule II. R.S., c. 300, s. 11. Fees

12. The mining recorder shall receive all deposits of money by this Act directed to be made with him. R.S., c. 300, s. 12. Money deposits

13. A statement of the grants issued and fees collected shall be rendered by the mining recorder to the Commissioner at least every month, and such statement shall be accompanied by the amount collected, or if the money has been Monthly
statement

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deposited to the credit of the Receiver General, by the deposit receipts. R.S., c. 300, s. 13.

Jurisdiction of
mining inspector

14. A mining inspector has jurisdiction within such mining districts as the Commissioner directs. R.S., c. 300, s. 14.

Summary powers
of inspector

15. (1) The mining inspector may summarily order any mining works to be so carried on as not to interfere with or endanger the safety of the public or any employees of the mining works, or any public work or highway, or any mining property, mineral claim, bedrock drain or bed-rock flume; and any abandoned works may, by his order, be either filled up or guarded to his satisfaction.

Appeal to
Commissioner

(2) Any person affected by an order of the mining inspector under this section may, within ten days, appeal therefrom to the Commissioner R.S., c. 300, s. 15.

Examination of
claims

16. The Commissioner, mining recorder or mining inspector, or the deputy of any such officer, or any judge of the Territorial Court, or any one deputed by any of them, may enter into or upon and examine any claim or mine. R.S., c. 300, s. 16.

RIGHT TO ACQUIRE CLAIMS

Who may locate
claims

17. (1) Subject to this Act, any individual eighteen years of age or over, on his own behalf, on behalf of any corporation authorized to carry on business in the Territory, or on behalf of any other individual eighteen years of age or over, may enter for mining purposes, locate, prospect and mine for gold and other precious minerals or stones upon any lands in the Territory.

Restrictions on
locating claims

- (2)** Subsection (1) does not apply to lands
- (a)** to which the *National Parks Act* applies;
 - (b)** used as a cemetery or burial ground;
 - (c)** lawfully occupied for placer mining purposes;
 - (d)** set apart and appropriated by the Governor in Council for any purpose described in paragraph 19(d) of the *Territorial Lands Act*;
 - (e)** entry on which for the purpose of prospecting for minerals and locating a claim is prohibited by order of the Governor in Council under section 93 of this Act except on the terms and conditions set out in the order;
 - (f)** under the administration and control of the Minister of National Defence, unless the consent of that Minister has been obtained in writing;

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- (g) within the boundaries of a city, town or village as defined by any ordinance of the Commissioner in Council, unless under regulations approved by the Governor in Council; or
- (h) occupied by a building or within the curtilage of a dwelling house." R.S., c. 300, s. 17; 1969-70, c. 38, s. 1.

18. No person shall enter for mining purposes, locate, prospect or mine upon lands owned or lawfully occupied by another until he has given adequate security, to the satisfaction of the mining recorder, for any loss or damage that may be thereby caused, and persons so entering, locating, prospecting or mining upon any such lands shall make full compensation to the owner or occupant of such lands for any loss or damage so caused, such compensation, in case of dispute, to be determined by a court having jurisdiction in mining disputes. R.S., c. 300, s. 18.

Security for damages

SIZE, FORM, ETC., OF CLAIMS

19. (1) A claim on a creek shall not exceed five hundred feet in length, measured along the base line of the creek, established or to be established by a Government survey, as hereinafter provided.

Nature and size of claims

(2) The side boundaries of a claim shall be lines on either side of the base line, parallel thereto and one thousand feet distant therefrom.

Side boundaries

(3) The end boundaries of the claim shall be lines drawn at each end of the claim, at right angles to the base line, and extending not more than one thousand feet on either side thereof.

End boundaries

(4) In the event of the base line not being established, the claim may be staked along the general direction of the valley of the creek, but in such case, when the base line is established, the boundaries thereby defined shall be conformed to R.S., c. 300, s. 19.

If base line not established

20. A claim situated elsewhere than on a creek shall not exceed five hundred feet in length parallel to the base line of the creek toward which it fronts, by one thousand feet. R.S., c. 300, s. 20.

Claims elsewhere than on a creek

21. A claim fronting on a creek or river shall be staked as nearly as possible parallel to the general direction of the valley of the creek or river, and shall conform to the boundaries that the base line, when established, defines. R.S., c. 300, s. 21.

Claims fronting on a creek

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- How measured** **22.** Claims shall be measured horizontally irrespective of inequalities on the surface of the ground. R.S., c. 300, s. 22.
- Form of claims** **23.** (1) Every creek claim shall be as nearly as possible rectangular in form, and shall be marked by two legal posts firmly fixed in the ground on the base line at each end of the claim.
- Idem** (2) A claim situated elsewhere than on a creek shall be as nearly as possible rectangular in form, and shall be marked by two legal posts firmly fixed in the ground in a line parallel to the base line and on the side nearest the creek or river toward which it fronts.
- Line between posts** (3) The line between the two posts shall be well cut out so that one post may, if the nature of the surface will permit, be seen from the other.
- Marking posts** (4) One of the flatted sides of each post shall face the claim, and on each post shall be written on the side facing the claim, a legible notice stating the name or number of the claim, or both if possible, its length in feet, the date when staked, and the full Christian and surname of the locator.
- Numbering of posts** (5) The posts shall be numbered 1 and 2 respectively, and it is not lawful to move them except that No. 2 may be moved by a Dominion land surveyor, if the distance between the posts exceeds the length prescribed by this Act, but not otherwise.
- Saving** (6) Notwithstanding anything herein contained, failure on the part of a locator of a claim to comply with any of the foregoing provisions of this section shall not be deemed to invalidate his location, if, upon the facts, it appears to the satisfaction of the mining recorder that there has been on the part of the locator a *bona fide* attempt to comply with this Act, and that the non-observance of the formalities herein-before referred to is not of a character calculated to mislead other persons desiring to locate claims in the vicinity. R.S., c. 300, s. 23.
- Size of discovery claims** **24.** Any person or party of persons locating the first claim on any creek, hill, bench, bar or plain, or locating a claim on any creek, hill, bench, bar or plain upon which there is no recorded claim, is entitled to a claim or claims respectively of the following size, namely,
- (a) one locator, one claim, fifteen hundred feet in length; and
 - (b) a party of two or more locators, two claims, each one thousand two hundred and fifty feet in length; and for each member of the party beyond two a claim of the ordinary size only. R.S., c. 300, s. 24.

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25. The boundaries of any claim may, by order of the Commissioner or mining recorder, upon application by the owner thereof, be enlarged to the size of a claim allowed by this Act, if such an enlargement will not interfere with any mining property that is owned by any other person or is subject to the terms of an agreement with the Crown. R.S., c. 300, s. 25. Extension of boundaries of claim

LOCATING AND RECORDING

26. The forms of application for grant, of application for renewal of grant, and of grant of a claim are those contained respectively in Forms 1, 2 and 3 of Schedule I. R.S., c. 300, s. 26. Forms

27. (1) An application in duplicate for a grant of a claim shall be filed with the mining recorder within ten days after the location thereof, if it is located within ten miles of the mining recorder's office. Time allowed

(2) One extra day shall be allowed for every additional ten miles or fraction thereof. R.S., c. 300, s. 27. Extra time

28. No grant shall be issued by a mining recorder for a part of a claim that is already recorded. R.S., c. 300, s. 28. Part of claim already recorded

29. The location of a claim on Sunday or any public holiday is not for that reason invalid. R.S., c. 300, s. 29. Location on Sunday

30. (1) Where a claim is more than one hundred miles from a recorder's office, and situated where other claims are being located, the locators, not less than five in number, are authorized to meet and appoint one of their number an emergency recorder, who may receive applications for grants of claims located in accordance with this Act. When claims one hundred miles from recorder's office

(2) The emergency recorder shall note on each application the day upon which such application was received by him and the amount of fees paid in respect thereto. R.S., c. 300, s. 30. Record of application

31. (1) The emergency recorder shall, as soon as possible after his appointment, notify the mining recorder for the district in which the claims are situated of his appointment, and he shall deliver personally or otherwise to such mining recorder the applications and fees received by him in respect of such claims. Notification of applications

(2) Where the emergency recorder has accepted from any person an application made in accordance with this Act and in the form set out in Form 1 of Schedule I and the fee Recorder to issue grants

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therefor, the mining recorder may issue to such person a grant in the form set out in Form 3 of Schedule I.

Date of grant (3) The grant mentioned in subsection (2) shall date from the time the emergency recorder accepted the application and fees.

Failure to notify mining recorder (4) Where the emergency recorder fails, within four months, to notify the mining recorder of his appointment and to deliver to him the applications for claims received and the fees collected, the mining recorder may refuse to issue grants for such claims. R.S., c. 300, s. 31.

Permits to bona fide prospectors **32.** Any person, upon satisfying a mining recorder that he is about to undertake a *bona fide* prospecting trip, may, upon payment of a fee of two dollars, receive written permission from the mining recorder, allowing him to record a claim within his mining district at any time within a period not exceeding six months from the date of his staking such claim. R.S., c. 300, s. 32.

Claim to be staked by applicant in person **33.** No application shall be received for a claim that has not been staked by the applicant in person in the manner specified in this Act, except that if any person files with the mining recorder powers of attorney from not more than two persons he may stake subsequent to such filing not more than three claims in the name of each such person during any year the power of attorney is in force. R.S., c. 300, s. 33.

Abandonment and surrender of claim **34.** (1) A person holding a grant of a claim may, at any time, abandon the claim, by giving notice in writing of his intention to do so to the mining recorder and surrendering his grant to the mining recorder.

Relocation of claim (2) No claim shall be relocated within thirty days of its being so abandoned, nor until after notice of the abandonment has been posted up for at least a week in a conspicuous place on the claim and in the office of the mining recorder, nor until a statutory declaration has been filed with the mining recorder that the notices have been so posted.

Right to relocate (3) Persons holding an interest in a claim at the time of its forfeiture or abandonment do not have the right to relocate the claim, or any part thereof, within one year after the date of such forfeiture or abandonment. R.S., c. 300, s. 34.

Limitation **35.** Any person who records a claim in his own name or who has a claim recorded in his name by power of attorney does not have the right to locate or have located for him another claim within the valley or basin of the same creek or river within sixty days of the date on which the said claim was located. R.S., c. 300, s. 35.

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36. During the absence of the mining recorder from his office, an application for a claim may be received by any person whom he may appoint to perform his duties in his absence. R.S., c. 300, s. 36. Substitute of
mining recorder

37. (1) As soon as reasonably possible after a grant of a claim, the holder of the claim shall affix or cause to be affixed securely to each of the posts of the claim a metal tag plainly marked or impressed with the number and letter or letters, if any, of the grant of the claim, and in default the claim may be cancelled by the mining recorder on the application of anyone who, in the opinion of the mining recorder, has been misled by the lack of such tags. Tagging of
claims

(2) The mining recorder on application shall supply the numbered tags, mentioned in subsection (1), free of charge. Supply of tags

(3) This section applies in respect of all claims granted after the 1st day of June 1948. R.S., c. 300, s. 37. When applicable

SURVEYS

38. (1) Surveys of claims made under instructions issued by direction of the Commissioner to a duly qualified Dominion land surveyor named by him shall be accepted as defining absolutely the boundaries of the claims surveyed, if the returns of the survey are approved by the Commissioner or an official appointed by him for that purpose, and notice of such survey has been published in the *Yukon Gazette* for twelve successive issues thereof, and remains unprotected during that period. Surveys of
claims

(2) The owner of a claim so surveyed shall, prior to the first appearance of the advertisement in the *Yukon Gazette*, cause to be posted in a conspicuous spot on the claim a notice of his intention to advertise the survey of the claim, and also a plan of the survey of the claim prepared by the surveyor. Notice and plan
of survey

(3) If, within the time during which the notice is published, the survey is protested, the protest shall be heard and decided upon by the Commissioner, and the costs of the hearing are in the discretion of the Commissioner, who may direct that the costs or any portion thereof shall be paid by any party to the proceedings. Protest of survey

(4) If a decision is rendered varying the boundaries of the claim from those defined by the advertised survey, the owner of the claim may have the claim re-surveyed and fresh returns prepared embodying the changes involved by such decision, and such re-survey being approved by the Commissioner, or the official appointed by him for that purpose, may Re-survey when
decision varies
boundaries

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without advertisement be accepted by the Commissioner in lieu of the survey that has been protested.

Costs (5) The expenses in connection with the survey and advertisement of claims shall be defrayed by the owners of the claims, but no fees will be charged by the Government for filing plans or other documents in connection therewith.

Appeal (6) An appeal may be taken at any time within twenty days from the decision of the Commissioner to the Territorial Court of the Yukon Territory.

Rules of procedure (7) The procedure in all cases before the Commissioner under this section, and on appeal therefrom, shall be in accordance with rules prepared by the Commissioner. R.S., c. 300, s. 38.

Surveys **39.** The Commissioner on behalf of the Government of Canada may authorize and direct the survey of the base line of any creek or river to be made in accordance with such general instructions as may be issued by the Surveyor General, and such survey is, subject to the provisions of this Act with respect to advertisement and protest, a final determination of the location of such base line. R.S., c. 300, s. 39.

TITLE

Grant of located claim **40.** (1) Any person having duly located a claim may obtain a grant thereof for one or five years by paying to the mining recorder, in advance, the fees prescribed in Schedule II.

Renewal of grant (2) Such person is, upon receiving such grant, entitled to hold the claim for the period mentioned therein, with the absolute right of renewal from year to year thereafter upon payment of the renewal fee prescribed in Schedule II, if such person, during each year of the said period, and during each year for which such renewal is granted, does, or causes to be done, work on the claim to the value of two hundred dollars, in accordance with a schedule to be prepared by the Commissioner, and files, within fourteen days after the date of the expiration of the said period or renewal thereof, with the mining recorder or his agent, an affidavit made by him or his agent, stating that such work has been done, and setting out a detailed statement thereof.

Work done outside of claim (3) Any such work done outside of a claim with intent to work the claim shall be deemed, if it has direct relation to the claim, and if it is to the satisfaction of the mining recorder, to be work done on the claim for the purposes of this section.

Where more work done than required (4) Where more work is performed by or on behalf of the recorded owner of a claim than is required by this Act during

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any year to be performed the excess work up to a value of eight hundred dollars upon proof of the same having been performed in accordance with this Act shall be applied by the mining recorder upon work required to be done during the subsequent year or years; excess work may only be recorded during the year in which it was performed or within fourteen days of the expiry of such year. R.S., c. 300, s. 40.

41. (1) In the event of the work referred to in section 40 not being done as therein provided, the title of the owner to the claim thereupon becomes absolutely forfeited and the claim is forthwith open for relocation without any declaration of cancellation or forfeiture on the part of the Crown, and the claim shall not be reserved from entry and relocation during the fourteen days of grace mentioned in the said section.

Forfeiture of claim

(2) This section does not affect any rights granted by the terms of any existing agreement with the Crown. R.S., c. 300, s. 41.

Existing rights

42. (1) Where the owner of a claim has done the required work thereon, but has failed to renew his grant thereof, the mining recorder may issue a grant to any person relocating such claim.

When owner does not renew

(2) The owner may, within six months after the date at which his grant came due for renewal, apply for a renewal grant, and for the cancellation of any grant so issued, and the latter grant shall be cancelled, or in the event of a grant not having been issued for the said claim, any pending application for the claim shall be refused, if it is proved to the satisfaction of the mining recorder that the required work was done by the owner, and upon the owner paying the expenses to which the relocater may have been put in locating and applying for the said claim, and in the event of a grant having been issued therefor, paying also all the expenses to which the relocater may have been put in obtaining the grant, and also compensation for any *bona fide* work that he has performed thereon.

Owner may renew

(3) Where the owner of a claim fails to renew his grant within the time provided by this Act, the renewal fee, if paid within three months after the date of expiry, is thirty dollars, and after three months and within six months from such date of expiry is forty-five dollars. R.S., c. 300, s. 42.

Renewal fees

43. (1) No title shall be contested by any one who does not claim an adverse right except by leave of the Commissioner, and upon such leave being given it is not necessary to have any other authority on behalf of the Crown.

Contest of title

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- First right to locate** (2) In the event of a claim reverting to the Crown as a consequence of litigation undertaken pursuant to such leave, the plaintiff has the first right to locate the said claim. R.S., c. 300, s. 43.
- Proportionate contribution** **44.** Where two or more persons are co-owners in a claim, each such person shall contribute, proportionately to his interest, to the work required to be done thereon and to the payment of renewal fees, and if it is proved to the mining recorder, after notice of hearing has been served on all parties interested in the manner directed by him, that any co-owner has not done so, his interest may, by order of the mining recorder, become vested in the other co-owners, who have performed the work and paid the fees in proportion to their interests. R.S., c. 300, s. 44.
- When claim disposed of** **45.** (1) The owner of a claim may sell, mortgage or dispose of it, provided the instrument showing such disposal is deposited in duplicate with the mining recorder.
- Registration** (2) The mining recorder shall, upon such deposit, register the instrument and return to the assignee one of the duplicates with a certificate endorsed thereon that the instrument has been recorded in his office, and retain the other. R.S., c. 300, s. 45.
- Agreements affecting title** **46.** No agreement affecting the title to any claim, or to any interest therein, is enforceable against any person without notice, unless such agreement or some memorandum thereof is in writing, duly signed, and is recorded in the office of the mining recorder. R.S., c. 300, s. 46.
- Right of grantee** **47.** (1) Every person receiving a grant of a claim, or the permission to record a claim within the period not exceeding six months hereinbefore authorized, may, during the continuance of his grant or permission, fish and shoot for his own use, subject to the provisions of any law for the protection of fish and game, and may also cut timber, not otherwise acquired, for his own use and for any purpose incidental and necessary to the operation of his claim; and such person also has the exclusive right to enter upon his claim for the miner-like working thereof and the construction of a residence thereon, and is entitled exclusively to all the proceeds realized therefrom, upon which, however, the royalty prescribed by this Act is payable; but the mining recorder may grant to the holders of other claims such rights of entry thereon as may be absolutely necessary for the working of their claims, upon such terms as to him seem reasonable and may also grant permits to other claim owners to cut timber thereon for their own use.

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(2) The Commissioner may, on application, grant any person operating a dredge the right to take such dredge through a mining claim owned by any other person to adjoining property that he may desire to work with the same dredge, and for the purpose referred to may grant the right to thaw, disturb, or remove such portion of the claim as in the opinion of the Commissioner is necessary for such operation; but before such permission is granted the applicant shall deposit with the Commissioner a sufficient sum of money to secure payment to the owner of the claim for all damage that may be caused by the passage of the dredge through such claim; and all damage caused by the said passage through the claim shall be assessed by the Commissioner and from the moneys deposited with him by the applicant the damage as assessed shall be paid, and the balance, if any, refunded.

Powers when
moving dredge

(3) Where, in the operation necessary to the passage of the dredge, any pay gravels are removed, the gold that may be contained therein shall be recovered by such operator, and all such gold is the property of the owner of the claim.

Pay gravels
removed

(4) An appeal may be taken at any time within ten days from the decision of the Commissioner to the Territorial Court of the Yukon Territory with respect to the amount of the assessment. R.S., c. 300, s. 47.

Appeal

48. No rights of any person owning or applying for a claim shall suffer from any acts of omission or commission, or delays, on the part of any official appointed under this Act. R.S., c. 300, s. 48.

Rights of owner

49. Whenever, through the acts or defaults of any person other than the recorded owner of a claim, or his agent duly authorized by him, the evidence of the location or record on the ground or the situation of the claim has been destroyed, lost or effaced, or is difficult of ascertainment, effect shall nevertheless be given to the location as far as possible; and the Commissioner may make all necessary inquiries, directions and references in the premises for the purpose of carrying out the object of such location, and vesting title in such owner. R.S., c. 300, s. 49.

When evidence
of location lost

50. The Governor in Council may make regulations exempting members of the armed forces of Her Majesty or any of Her Majesty's allies, during the period of their service as such and one year thereafter, from the provisions of this Act respecting forfeiture of mineral claims held by them at the time of their enlistment, for non-performance of work or non-payment of assessments or rentals. 1966-67, c. 96, s. 64.

Claims of service
personnel

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GROUPING

Owners of adjoining claims

51. (1) Adjoining claims, not exceeding ten in number, may be grouped together for the performance of work by the owner or owners thereof upon filing with the mining recorder a notice of his or their intention so to group such claims and obtaining a grouping certificate in the form set out in Form 7 of Schedule I.

Grouping certificate

(2) Adjoining claims exceeding ten in number and any number of claims some of which do not adjoin may with the approval of the Commissioner be grouped together for the performance of work by the owner or owners thereof if such owner or owners show to the satisfaction of the Commissioner that said claims are to be operated by a system of mining that has a direct bearing upon all other claims affected and renders a considerable area necessary to successful operation by the system proposed, and the Commissioner may, in such cases, issue a grouping certificate in the form set out in Form 7 of Schedule I.

Work on one or more claims in a group

(3) The holder or holders of a grouping certificate in the form set out in Form 7 of Schedule I may perform on any one or more of the claims in respect of which the grouping certificate was issued, all or any part of the work required to entitle him or them to a certificate of work for each claim so held by him or them, but if such work is not done the claims shall be deemed to be vacant and abandoned without any declaration of cancellation or forfeiture on the part of the Crown.

Cancelling grouping certificate

(4) Any grouping certificate issued by the Commissioner may be cancelled by him upon the expiry of sixty days from the mailing of a notice by registered mail to the owners of the claims in the group, in case it appears from the report of a mining inspector or otherwise that the system of mining contemplated when such grouping certificate was issued is not being installed or operated with reasonable diligence. R.S., c. 300, s. 51.

Renewing of grouped claims

52. (1) Grants of claims in respect of which a grouping certificate has been issued, and grants of any claims within a mining district, owned by one person, may be made renewable by the mining recorder on the same day.

Renewal for part of year

(2) In granting the privilege allowed under this section the mining recorder shall charge the applicant two dollars and fifty cents for every three months or portion thereof for each claim during that portion of the year it is necessary to renew it to make all the claims renewable on the same day; and the representation work required for the fractional portion of the year for which each claim is renewed shall be allowed at the

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rate of fifty dollars for each three months or fraction thereof, and the said representation work shall be performed and recorded on or before the date from which all the claims are first made renewable. R.S., c. 300, s. 52.

WATER RIGHTS

53. Every person owning a claim is entitled to the seepage water on his claim and to the use of so much of the water naturally flowing through or past his claim, and not already lawfully appropriated, as, in the opinion of the mining inspector, is necessary for the due working thereof; and he is entitled to drain his own claim free of charge. R.S., c. 300, s. 53. Rights of claim owner to water

54. (1) A mining recorder may, with the approval of the Commissioner, upon application being made as hereinafter mentioned, grant to any person or persons for any mining purpose or any purpose incidental thereto, for any term not exceeding five years, or in special cases for such longer term as may be determined, the right to divert or take, and use or sell the water from any stream or lake, at any particular part thereof, and the right-of-way through and entry upon any mining property, for the purpose of constructing and repairing ditches and flumes to convey such water. Grant of right to divert or use water

(2) Before entering upon or constructing or repairing works upon the mining property of any other person, such applicant shall give adequate security, by bond or otherwise, to the satisfaction of the mining recorder to secure payment to the owner of the mining property of all damage caused by such entry or construction or repairing. R.S., c. 300, s. 54. Security

55. (1) Every applicant for a water grant shall post for twenty days prior to the making of the application a notice in writing of his intention to apply to the mining recorder for such grant Notice of intention to apply for water grants

- (a) at the point of proposed diversion or taking;
 - (b) on the claim on which such water is intended to be used;
 - (c) on each claim or person's land to be crossed by the water in course of transit to the place of user; and
 - (d) in the office of the mining recorder;
- and shall forward a copy of the notice to the Commissioner.

- (2) The notice shall state Particulars
- (a) the name of the applicant;
 - (b) the name, or if unnamed, a sufficient description, of the stream, lake or other source from which water is intended to be diverted or taken;

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- (c) the point of diversion or taking or intended ditch-head, and the point where the water is to be returned to the stream ;
- (d) the means by which it is intended to divert or take, or to store the water ;
- (e) the number of inches of water to be applied for ;
- (f) the purposes for which it is required, stated with reasonable particularity ;
- (g) the claim upon which the water is to be used, or, if the right to sell water is asked, the locality within which the right is to be exercised ; and
- (h) the date of the posting of the notice, and the date on which application will be made to the mining recorder for the granting of the record. R.S., c. 300, s. 55.

Application for
water grant

56. On the day mentioned in the notice of application or at a subsequent day and time to be fixed by the mining recorder, as the case may be, application shall be made by or on behalf of the applicant, either by attendance in person or by agent, or in writing, for a grant in accordance with the terms of the notice. R.S., c. 300, s. 56.

Adjudication of
mining recorder

57. The mining recorder shall, at such day and time, proceed to adjudicate upon the application, and may, with the approval of the Commissioner, upon proof to his satisfaction of the publication of the notice in the manner aforesaid, of the ability of the applicant to construct the necessary works, of the right of the applicant to apply for a record under the foregoing provisions of this Act or any of them, and of the volume of unrecorded water available for diversion having regard to existing rights and records, whether held by land owners or mine owners, and to pending applications, which facts shall be reported upon by the Government mining engineer or mining recorder, issue to the applicant a grant, in Form 4 of Schedule I, of such amount of water and for such purposes as, in the discretion of the mining recorder, are reasonably required by the applicant for the purposes specified in his notice of application. R.S., c. 300, s. 57.

Powers of
mining recorder

58. The mining recorder may adjourn such adjudication from time to time as circumstances render expedient, and may take evidence by statutory declaration, and summon and examine witnesses upon oath, and hear all parties whose rights are or may be affected by the application. R.S., c. 300, s. 58.

Waste or excess

59. Every holder of a water grant shall take all reasonable means for utilizing the water granted to him ; and if he wilfully wastes any water or takes a quantity of water in

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excess of his actual requirements, or has worked out or abandoned the claim or claims with respect to which the water grant was issued, the mining inspector may, upon notice, cancel or reduce the grant, or impose such conditions as he thinks proper.

(2) An appeal may be taken, at any time within ten days from any such action of the mining inspector, to the Commissioner. R.S., c. 300, s. 59. Appeal to Commissioner

60. Every grant of water on an occupied creek is subject to the rights of such claim owners as shall, at the time of such grant, be working on the stream above or below the ditch-head, and of any other persons lawfully using such water for any purpose whatever. R.S., c. 300, s. 60. Rights saved

61 (1) If, after the grant has been made, any person or persons locate and *bona fide* work any claim or claims below the ditch-head on any stream so diverted, they are collectively entitled to the continuous flow in the stream of the water passing such claim or claims to the following extent: if three hundred inches or less are diverted, they are entitled to forty inches and no more; if over three hundred are diverted, they are entitled to sixty inches, and no more, except, in either case, upon paying to the owner of the ditch, and all other persons interested therein, compensation equal to the amount of damage sustained by the continuous flow of such extra quantity of water as is desired; and in computing such damage the loss sustained by the owners of such claims using water from the ditch, and all other reasonable losses, shall be considered. Water rights of owners of claims

(2) The right to such continuous flow, and to such extra quantity of water, is subject in all cases to the approval in writing of the Government mining engineer or mining recorder, subject to appeal to the Commissioner within twenty days from the date of the decision rendered. R.S., c. 300, s. 61. Approval and appeal

62. The holder of a water grant with the privilege of selling water may distribute the water to such persons and on such terms as he deems advisable, within the limits mentioned in his grant, but the price charged for such water is subject to the control of the Commissioner, and the water shall be supplied to all claim owners who make application therefor in a fair proportion, and according to priority of application. R.S., c. 300, s. 62. Distribution of water

63. In measuring water in any ditch or sluice the following rules shall be observed: Rules for measurement of water

- (a) the water taken into a ditch or sluice shall be measured at the ditch or sluice head;

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- (b) no water shall be taken into a ditch or sluice except in a trough placed horizontally at the place at which the water enters it ;
- (c) one inch of water means half the quantity that will pass through an orifice two inches high by one inch wide with a constant head of seven inches above the upper side of the orifice ; and
- (d) a sluice head shall consist of fifty such inches of water. R.S., c. 300, s. 63.

Construction of culverts

64. The owner of any ditch, water privilege or claim shall, at his own expense, construct, secure and maintain all culverts necessary for the passage of waste and superfluous water flowing through or over any such ditch, water privilege or claim. R.S., c. 300, s. 64.

Duty of owner

65. The owner of any ditch or water privilege shall construct and secure the same in a proper and substantial manner, and maintain the same in good repair, to the satisfaction of the mining recorder, and so that no damage shall occur to any road or work in its vicinity from any part of the works of such ditch or water privilege. R.S., c. 300, s. 65.

Liability of owners

66. (1) The owner of any ditch or water privilege is liable for, and shall make good in such manner as the mining recorder determines, all damages that may be occasioned by or through any part of the works of the said ditch, water privilege or right breaking or being imperfect.

Appeal

(2) An appeal from the decision of the mining recorder under this section may be taken at any time within ten days to the Commissioner. R.S., c. 300, s. 66.

Transfer includes water privileges

67. Every grant of water obtained by the owner of a claim shall be deemed appurtenant to the claim in respect of which the grant is obtained ; and all assignments, transfers or conveyances permitted by law of any claim, whether such assignments, transfers or conveyances were made before or after the 1st day of August 1906 shall be construed to have conveyed and transferred, and to convey and transfer, any and all recorded water privileges appurtenant to the claim assigned, transferred or conveyed. R.S., c. 300, s. 67.

Ground for reservoirs

68. The Commissioner may, upon approval by him of an application for permission to impound the surplus waters of any creek or gulch, withdraw from mining entry any vacant ground required as a reservoir site, or for any other purpose in connection with the storage of water ; but only such ground as has been thoroughly prospected and has been found to be worthless for placer mining purposes, or ground

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that has been worked out and abandoned, may be so withdrawn. R.S., c. 300, s. 68.

DRAINAGE

69. The mining recorder may grant permission to run a drain or tunnel for drainage purposes through any occupied or unoccupied lands whether mineral or not, and may give exclusive rights-of-way through and entry upon any mining ground for any term not exceeding five years, for the purpose of constructing and maintaining drains for the drainage thereof. R.S., c. 300, s. 69.

Grant of right to run drains

70. The grantee shall compensate the owners of lands or of claims entered upon by him for any damage they may sustain by the construction of such tunnel or drain; and such compensation, if not agreed upon, shall be settled by the board of arbitration hereinafter referred to, and be paid before such drain or tunnel is constructed. R.S., c. 300, s. 70.

Compensation

71. The drain or tunnel referred to in section 69, when constructed, shall be deemed to be the property of the person by whom it has been constructed. R.S., c. 300, s. 71.

Property of constructor

72. (1) Every application for a grant shall state the names of the applicants, the nature and extent of the proposed drain or drains, the amount of toll, if any, to be charged, and the privileges sought to be acquired, and shall, except where the drain is intended only for the drainage of the claim of the person constructing it, be accompanied by a deposit of twenty-five dollars, which shall be refunded if the application is refused, but not otherwise.

Application

(2) Ten full days notice shall be given of any such application to be made in June, July, August, September or October, and one month's notice of an application to be made in any other month, by affixing the notice to a post planted in some conspicuous part of the ground, and by affixing a copy thereof conspicuously upon the inner walls of the office of the mining recorder.

Notice

(3) Prior to such application, the ground included therein shall be marked out to the satisfaction of the mining recorder.

Marking out ground

(4) Any person may, within the times hereinbefore prescribed for the notice of such application but not afterwards, protest before the Commissioner against the application being granted. R.S., c. 300, s. 72.

Protest of application

73. (1) The grant of the right-of-way to construct drains and tunnels shall be in Form 5 of Schedule I.

Form of grant

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Registration (2) The grant shall be registered by the grantee in the office of the mining recorder, to whom he shall at the time pay a fee of five dollars; or, if the grant gives power to collect tolls, a fee of forty dollars.

Rent (3) An annual rent of ten dollars shall be paid, in advance, by the grantee for each quarter of a mile of right-of-way legally held by him, except where the drain is for the purpose of draining only the claim of the person constructing it. R.S., c. 300, s. 73.

DISPUTES

Title 74. In case of any dispute as to the locating of a claim, the title to the claim shall depend upon priority of location, subject, however, to any question as to the validity of the record itself, and subject, further, to the claimant having complied with all the terms and conditions of this Act. R.S., c. 300, s. 74.

Board of arbitrators 75. (1) In the event of any dispute between the owners of claims or lessees of locations with respect to the distribution of water, encroachments, or to dumping, or as to the amount of compensation to be paid for any damage caused by any drain or tunnel constructed for drainage purposes under this Act, or any other matter referred to in section 76, such dispute may be heard and determined by a board of arbitrators.

Appointment of arbitrators (2) The Commissioner, upon the request of any such owner or lessee for the appointment of a board of arbitrators and upon being furnished with a statement of the matter complained of, clearly expressed in writing, shall notify each party to the dispute to appoint an arbitrator, and shall notify all persons holding any interest in the claim or property of the proposed arbitration proceedings, and in case any person who was notified to appoint refuses or neglects to appoint an arbitrator within thirty days of the date of such notification the Commissioner, upon being requested to do so by the arbitrator or arbitrators appointed, or by any interested owner or lessee, shall appoint such arbitrator or arbitrators.

Additional arbitrators (3) In the event of the total number of arbitrators so appointed being an even number, an additional arbitrator shall be appointed by such arbitrators.

When Commissioner to appoint additional arbitrator (4) In the event of the arbitrators so appointed being an even number, and being unable to agree upon the additional arbitrator, or failing to do so within five days from the date upon which the last arbitrator was appointed, the Commissioner, upon being requested to do so by the arbitrators so

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appointed or by any interested owner or lessee, shall appoint the additional arbitrator.

(5) The arbitrators are entitled to be paid a per diem allowance of ten dollars, together with necessary travelling and living expenses, while actually engaged in the arbitration, and the costs of such arbitration, including the cost of any examination of the property that may be found necessary, shall be borne by such owners or lessees as are parties to the dispute, and in the proportion set out in the award of the arbitrators.

Costs of arbitration

(6) The procedure in all cases before a board of arbitrators under this Act shall be in accordance with rules prepared by the Commissioner. R.S., c. 300, s. 75.

Rules of procedure

76. (1) Except as hereinafter provided, no person mining upon any claim shall cause damage or injury to the holder of any claim other than his own by throwing earth, clay, stones or other material upon such other claim, or by causing or allowing water that may be pumped or bailed or may flow from his own claim, to flow into or upon such other claim.

Damages by dumping, etc.

(2) If the owner of a claim wishes to deposit the leavings, deads, waste or tailings therefrom on any adjacent claim, or on any other adjacent mining property, whether the same was acquired under this Act or any other Act, order in council or regulation governing mining in the Yukon Territory, which claim or mining property is of not less than five years standing, or if such owner wishes to cause or allow water that may be pumped or bailed or may flow from his own claim to flow into or upon such other claim or mining property, he may give one month's notice of such desire in writing to the owner or lessee of such adjacent claim or property, and if, at the expiration of the month the owner giving the said notice and the owner or lessee of the adjacent claim or mining property has not been able to arrive at an agreement as to the price to be paid for the dumping ground or for damages caused by such flow of water, the owner giving notice may apply to the Commissioner to have the value and size of the dumping ground and the amount of such damages determined by the board of arbitrators, and the board has power to permit so much of the adjacent claim or property to be used for dumping and at such a price as the board of arbitrators deems just. R.S., c. 300, s. 76.

When owner of claim may deposit leavings, etc., on adjacent claim

77. (1) The judgment of the board of arbitrators shall be in writing and shall be filed in the office of the mining recorder.

Judgment of the board

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Appeal (2) Any such judgment is final as to facts, but may be appealed from the Territorial Court on any question of law. R.S., c. 300, s. 77.

Costs of inquiry 78. The board of arbitrators may award such costs of and incidental to the inquiry as it deems just. R.S., c. 300, s. 78.

Affidavits and declarations 79. Affidavits and declarations required by this Act may be made before the Commissioner or any mining recorder or mining inspector, anywhere within the Territory, or by any person duly authorized to administer an oath or declaration. R.S., c. 300, s. 79.

ADMINISTRATION OF ESTATES

Death or insanity of owner 80. Where the owner of a claim or of any interest in a claim dies or is adjudged to be insane, the provisions of this Act as to forfeiture for non-performance of work, payment of fees and renewal do not apply except as hereinafter provided, in the first case, either during his last illness or after his decease, and in the second case, either after he has been so adjudged insane, or where it appears that the neglect or omission on account or by reason of which such claim would otherwise have been deemed to be forfeited was attributable to his insanity, then during such period prior to his having been so adjudged insane as he may be shown to have been insane. R.S., c. 300, s. 80

Powers of Commissioner over property 81. (1) The Commissioner may by order limit the period during which all or any interest in any mining claim, the property of such deceased or insane person, shall be so exempt from the provisions of this Act that require the annual performance of work and payment of fees and may fix the date upon which the same shall again become subject to all the provisions of this Act, and upon which renewal grants for the said property shall be issued upon payment of the prescribed fee.

When property forfeited (2) Upon failure so to renew, the title of the owner of the said property shall thereupon become absolutely forfeited and where the estate of such deceased person is the sole owner of any such claim, the claim shall forthwith be open for relocation without any declaration of cancellation or forfeiture on the part of the Crown, and where such an estate is a co-owner in any such claim, the interest of the estate thereupon *ipso facto* becomes vested in the other co-owners in proportion to their interests.

Extending period of exemption (3) The Commissioner may, by like order from time to time, extend the period of such exemption as the necessity of

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the case may in his opinion demand, but in the case of deceased persons the period during which such exemption applies shall not extend beyond three years from the date of the death of such person.

(4) If there is no other legal representative of the estate of any such deceased or insane person, the Commissioner may cause the public administrator of the Territory to take possession of such property and administer it, subject to the provisions of any ordinance respecting the administration of the estates of deceased or insane persons in the Territory, existing on the 1st day of August 1906 or thereafter to be made or passed. Public administrator

(5) No exemption of the interest of a deceased or insane owner in any claim applies to or exempts any co-owner's interest from the provisions of this Act with respect to the annual performance of work and payment of renewal fees. Co-owner's interest

(6) Where the estate of a deceased or insane person owns an interest in a claim and all the living co-owners have during the period of such exemption failed to perform the required work or to pay renewal fees, the interests of such co-owners may, upon such failure being proved to the Commissioner, after notice of hearing has been served on all parties interested in the manner directed by him, become vested in such estate by order of the Commissioner. R.S., c. 300, s. 81. Effect of failure

82. All charges and expenses that may be incurred by the Commissioner or the public administrator, or by any person acting under the instructions of either of them, in or about the working of such mining property, or in taking or keeping possession thereof, are and remain a first charge against that property until paid to the Commissioner or public administrator, as the case may be. R.S., c. 300, s. 82. Charges and expenses

83. (1) Any person receiving, from the public administrator or other legal representative of the estate of a deceased or insane person, an assignment or transfer of a claim or interest in a claim that has been exempted from the provisions of this Act with respect to performance of work and payment of renewal fees because of the death or insanity of the owner thereof, shall apply to the mining recorder and pay the prescribed fee for a grant thereof within two months from the date of such assignment or transfer. Assignee to apply for grant within two months

(2) If a grant is not so applied for and the recording fee paid, the provisions so exempting such claim or interest cease to apply and such claim or interest shall on the expiration of When right ceases

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two months become absolutely forfeited and open for location. R.S., c. 300, s. 83.

TAXATION AND FEES

- Royalty **84.** (1) On all gold shipped from the Territory there shall be levied and collected a royalty at the rate of two and one-half per cent of its value, or at such less rate as may be fixed by the Governor in Council.
- Idem (2) Gold upon which royalty is payable is gold dust as mined, or gold in the form of bars as presented for export.
- How paid and to whom (3) Such royalty shall be paid in currency to the Controller of the Territory, or to some person authorized by him in that behalf, and the gold for the purpose of estimating such royalty shall be valued at fifteen dollars per ounce. R.S., c. 300, s. 84.
- Offence **85.** (1) Every person who exports or attempts to export from the Territory any gold with respect to which the royalty imposed by section 84 has not been paid, is guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding three years, or to both.
- On conviction gold forfeited to Her Majesty (2) Where a person is convicted under subsection (1) the convicting magistrate or justice may in his discretion order the gold in respect of which the conviction is had to be forfeited and thereupon the gold is forfeited to Her Majesty.
- Production of certificate (3) Every person about to export gold from the Territory shall upon demand produce to any peace officer a certificate from the Controller of the Territory or person authorized by the Controller under subsection 84(3) certifying that the royalty imposed by section 84 with respect to such gold has been paid and failure to produce the certificate upon such demand is *prima facie* evidence that the royalty has not been paid.
- Search and seizure (4) Where any peace officer has reasonable and probable grounds for believing that any person has committed or has reason to believe that any person is about to commit an offence described in subsection (1) or has in his possession or in his belongings any gold in respect of which the royalty imposed by section 84 has not been paid, that peace officer may without warrant search such person and his belongings and any articles believed to be his belongings and may seize any gold found upon such person or in such belongings.
- Search of female (5) No female shall be searched pursuant to this section except by a suitable woman who is a peace officer or is authorized by the peace officer to make the search.

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(6) Any gold seized pursuant to subsection (4) may be detained for a period of six months, and if before the expiration of such period any proceedings with respect to the gold are taken under this Act may be further detained until such proceedings are finally concluded. Detention of seized gold

(7) For the purpose of this section the expression "peace officer" means a peace officer as defined in section 2 of the *Criminal Code*. R.S., c. 300, s. 85. "peace officer"

86. The fees to be charged in connection with the administration of this Act are those set out in Schedule II. R.S., c. 300, s. 86. Fees

87. All fees, fines, royalties or other moneys collected under this Act become part of the Consolidated Revenue Fund. R.S., c. 300, s. 87. Moneys collected

GENERAL

88. (1) If it is proved to the satisfaction of the mining recorder that any person has Misrepresentation, removal of legal posts, etc.

(a) been guilty of misrepresentation in the statement sworn to by him in recording any claim, or in any of the statements required, under this Act, to be made by him under oath, or

(b) removed, or disturbed with intent to remove, or defaced any legal post or stake or other mark placed under the provisions of this Act,

the mining recorder may, in his discretion, order that such person be debarred from the right to obtain a grant or renewal of a grant of a claim for any length of time that he deems advisable.

(2) The mining recorder shall, forthwith, upon any such decision by him, notify every other mining recorder of such decision. Notification

(3) An appeal lies from any such decision of the mining recorder to the Commissioner. R.S., c. 300, s. 88. Appeal

89. Any person wilfully acting in contravention of this Act, or refusing to obey any lawful order of any official, court or board having jurisdiction under this Act in mining disputes is, on summary conviction before any two justices of the peace or a police magistrate, liable to a fine not exceeding two hundred and fifty dollars, or to imprisonment, with or without hard labour, for a term not exceeding three months. R.S., c. 300, s. 89. Penalties

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Application of Act

90. (1) No person shall be granted or acquire a claim or any right therein, or carry on placer mining in the Territory, except in accordance with this Act.

Exception as to prior rights

(2) This section does not affect any rights

(a) that have already been acquired under the regulations for the disposal of mining locations in the Territory to be worked by the hydraulic or other mining process, approved by Order in Council dated the 3rd day of December 1898 and amendments thereto;

(b) that have been or may after the 1st day of August 1906 be acquired under the regulations governing the issue of leases to dredge for minerals in the beds of rivers in the Territory, approved by Order in Council dated the 18th day of January 1898 or of any regulations in amendment thereof;

(c) that may have been otherwise lawfully granted before the 1st day of August 1906; or

(d) that may have been acquired under the authority of a lease to prospect. R.S., c. 300, s. 90.

Lease to prospect

91. (1) The Commissioner may grant a lease to prospect for the purposes of placer mining as defined in this Act on lands that are the property of the Crown, or the mining rights of which are available for disposal under this Act, upon receipt of an application accompanied by evidence to his satisfaction of the applicant's financial ability and intention to incur the expenditure necessary to thoroughly prospect the area described in the application.

Location

(2) The location shall be marked in the ground in the manner prescribed by this Act, and application for a lease shall be submitted in the form prescribed in Form 6 of Schedule I.

No other application

(3) While the lease remains in force the lessee is not eligible to make application for another lease.

Term of lease

(4) The term of the lease shall be one year, renewable for two additional periods of one year each, if the lessee on or before the termination of the year furnishes the Commissioner with evidence to show that he has incurred the prescribed expenditure in prospecting operations, and has otherwise complied with this Act and with the terms and conditions of the lease.

Application for lease of abandoned ground

(5) If the tract included in an application for a lease comprises abandoned ground, that is, if the whole or any portion of the creek or river upon which the tract applied for is situated has previously been staked out and recorded under this Act, or the regulations that preceded it, or under the hydraulic mining regulations approved by Order in Council

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dated the 3rd day of December 1898, but the grants of which have been permitted to lapse, or have been cancelled or forfeited, it shall not exceed five miles in length, and in the case of a creek shall be measured along the base line in the manner prescribed in this Act, the side and end boundaries of the location being those defined in this Act.

(6) In the case of a river, the location shall be on one side thereof only, and shall extend back from the foot of the natural banks a distance of one thousand feet measured from the base line, the end boundaries being lines drawn at each end of the location at right angles to such base line.

Location on river

(7) Locations other than on a creek or river shall not exceed one thousand feet in width and five miles in length measured along the line parallel to the base line of the creek or river and shall be made only on abandoned ground as defined in subsection (5).

Size of locations

(8) The rental of the tract leased shall be at the rate of twenty-five dollars a mile or fraction of a mile, payable to the Commissioner in advance for each year.

Rental

(9) Prior to the termination of the year the lessee shall furnish evidence, supported by affidavit, to the satisfaction of the Commissioner, that he has incurred during the year an expenditure at the rate of at least one thousand dollars for each mile or fraction of a mile leased to him in prospecting operations by recognized methods on the location itself, or for any purpose that to the Commissioner may seem essential or necessary for the economical development of the tract leased; and if such evidence is not furnished before the termination of the year, or is not satisfactory, the lessee is not entitled to a renewal of his lease.

Evidence of expenditure

(10) Before the termination of the lease the lessee may, if he so desires, personally stake out in the manner prescribed in this Act, placer mining claims comprising the whole or any portion of the tract leased, and upon furnishing the Commissioner with satisfactory evidence to show that he has incurred during the year for which the lease was issued the expenditure already provided for in the development of the leasehold he may submit application in the form prescribed in Form 1 of Schedule I, and obtain a grant in his own name for each of the claims so staked and applied for, in which case the unrecorded portion of the location immediately reverts to the Crown and becomes available for disposal under this Act.

Lessee may stake out claims

(11) If a creek or a river upon which an applicant desires to acquire a lease to prospect has not already been prospected, that is, if mining claims have not previously been staked, recorded, and abandoned along any part of such creek or

Lease upon creek or river not already prospected

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river, the term of the lease that may be granted shall be for one year only, not subject to renewal, and the tract leased shall not exceed one mile in length, marked out and measured in the manner above prescribed, and subject to all the conditions above set out in so far as they can be made to apply.

Evidence of expenditure

(12) Before the termination of the year the lessee of such a location may, if he so desires, stake out within the limits of the tract leased a claim not exceeding in size a discovery claim as defined in this Act, and upon furnishing the Commissioner with satisfactory evidence to show that he has incurred during the year for which the lease was issued the expenditure already provided for in the development of the leasehold, he may submit application and obtain a grant for the claim so staked and applied for, in which case the unrecorded portion of the location immediately reverts to the Crown and becomes available for disposal under this Act, and only one discovery claim shall be allowed on any such creek or river.

Fees

(13) The fee for the issue of a lease, or for the renewal thereof, is twenty-five dollars for each mile or fraction of a mile described in the lease, payable in advance to the mining recorder for the district, or to the Commissioner.

Transfers

(14) The lessee shall not assign, transfer or sublet the rights described in the lease, or any portion thereof, without the consent in writing of the Minister being first had and obtained. R.S., c. 300, s. 91.

Order prohibiting entry on certain lands

92. (1) Whenever in the opinion of the Governor in Council any land in the Territory is required for a harbour, airfield, road, bridge or other public work or for a national park, historic site, town site or other public purpose, he may by order prohibit entry on such land for the purpose of locating a claim or prospecting for gold or other precious minerals or stones except on such terms and conditions as he may prescribe.

Contents of order

(2) The Governor in Council shall, in every order issued pursuant to subsection (1),

- (a) indicate the public work or public purpose for which the lands are required; and
- (b) set forth the terms and conditions, if any, upon which entry for the purpose of locating a claim or prospecting for gold or other precious minerals or stones is permitted. 1969-70, c. 38, s. 3.

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SCHEDULE I

FORM 1

APPLICATION FOR GRANT FOR PLACER MINING AND AFFIDAVIT OF APPLICANT (Secs. 26, 31(2), 91(10))

No.

I, (or, we) of hereby apply, under the Yukon Placer Mining Act, for a grant of a claim for placer mining as defined in the said Act, in (here describe locality) and I (or, we) make oath and say:

1. That to the best of my (or, our) knowledge and belief the land is such as can be located under section 17 of the said Act.

2. That I (or, we) did on the day of 19, mark out on the ground, in accordance in every particular with the provisions of the said Act, the claim for which I (or, we) make this application, and in so doing I (or, we) did not encroach on any other claim or mining location previously laid out by any other person.

3. That the length of the said claim, as nearly as I (or, we) could measure, is feet, and that the description of this date hereto attached, signed by me (or, us) sets forth in detail, to the best of my (or, our) knowledge and ability, its position.

4. That I (or, we) staked out the claim by planting two legal posts numbered 1 and 2, respectively, and that No. 1 is discovery.

5. That I (or, we) make this application in good faith to acquire the claim for the sole purpose of mining to be prosecuted by myself (or, us) or by myself and associates or by my (or, our) assigns.

Sworn before me at, in the Yukon Territory, this day of 19

A commissioner for taking affidavits in the Yukon Territory (or, as the case may be).

R.S., c. 300, Sch. A.

FORM 2

APPLICATION FOR RENEWAL OF GRANT FOR PLACER MINING AND AFFIDAVIT OF APPLICANT (Sec. 26)

No.

I, (or, we) of (agent for of, if such be the fact) hereby apply under the Yukon Placer Mining Act for a renewal of a grant to the placer mining claim in the mining district,

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which said grant is number _____, and was issued to
on the _____ day of _____ 19____, and
I make oath and say:

1. That I am (*or, we are*) the agent of _____, *if
deponent is an agent of the owner* the owner (*or, owners*) of placer
mining claim _____ in the _____ mining district,
and hold (*or, that he holds*) a grant for the said claim dated the
day of _____ 19_____.

2. That work has been done on the said claim to the value of
at least two hundred dollars, in accordance with the schedule of
representation work prepared by the Commissioner of the Yukon
Territory, between the _____ day of _____ 19____,
and the _____ day of _____ 19_____.

The following is a detailed statement of such work:

Sworn before me at _____, in the Yukon
Territory, this _____ day of _____ }
19____. }
A commissioner for taking affidavits in the }
Yukon Territory (*or as the case may be*). }

R.S., c. 300, Sch. B.

FORM 3

GRANT FOR PLACER MINING (Secs. 26, 31(2))

No. _____

Department of Indian Affairs and Northern Development
Agency, _____ 19_____.

In consideration of the payment of _____ dollars, being
the fee prescribed by Schedule II to the *Yukon Placer Mining
Act*, by _____, of _____, accompanying his (*or,*
their) application No. _____ dated _____ 19____ for
a mining claim in (*here insert description of locality*).

The Minister of Indian Affairs and Northern Development
hereby grants to the said _____ for a term of _____
years from the date hereof, the exclusive right of entry upon the
claim (*here describe in detail the claim granted*) for the miner-like
working thereof, and the construction of a residence thereon, and
the exclusive right to all the proceeds realized therefrom, upon
which, however, the royalty prescribed by the said Act shall be
paid.

The said _____ shall be entitled to the use of so much
of the water naturally flowing through or past his (*or, their*) claim,
and not already lawfully appropriated, as shall be necessary for
the due working thereof, and to drain his (*or, their*) claim, free of
charge.

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This grant does not convey to the said _____ any right of ownership in the soil covered by the said claim, and the said grant shall lapse and be forfeited unless section 40 of the *Yukon Placer Mining Act* is strictly complied with.

The rights hereby granted are those laid down in the said Act and no more, and subject to all the provisions of the said Act, whether they are expressed herein or not.

Mining Recorder

R.S., c. 300, Sch. C.; 1952-53, c. 4, s. 12; 1966-67, c. 25, s.40.

FORM 4

GRANT OF RIGHT TO DIVERT WATER AND CONSTRUCT DITCHES
(Sec. 59)

No.

Agency,

19 _____

In consideration of the sum of _____ dollars paid on the date application is made for this grant, the Minister of Indian Affairs and Northern Development, in accordance with the *Yukon Placer Mining Act*, hereby grants to _____ for the term of _____ years from the date hereof, the right to divert, take (sell, *to be inserted in a grant to sell water*) and use the water from _____ to the extent of _____ inches, and no more, to be distributed as follows:

and the right of way through and entry upon the following mining grounds:

for the purpose of constructing ditches and flumes to convey such water, provided that at least the sum of _____ dollars, shall be expended on the said ditches and flumes within one year from the date hereof, and provided that such ditches and flumes are constructed and in working order within _____ from the date hereof:

Provided that his grant shall be deemed to be appurtenant to placer claim No. _____, and shall cease and determine whenever the said claim shall have been worked out or abandoned, or the occasion for the use of such water upon the said claim shall have permanently ceased:

(If the right to sell water is granted, insert the following:

"Provided also, that the price charged for the water shall be subject to the control of the Commissioner of the Yukon Territory, and the water shall be supplied to all claim owners who apply therefor in a fair proportion and without any discrimination.")

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Provided also, that this grant is subject to all the provisions of the said Act in that behalf whether the same are expressed herein or not. It is expressly a condition of this grant that the same is issued subject to all rights subsisting at this date to the water in respect to which this grant is issued. Water to be flumed and tailings to be handled to the satisfaction of the mining inspector.

Mining Recorder

RS., c. 300, Sch. E.; 1952-53, c. 4, s. 12; 1966-67, c. 25, s. 40.

FORM 5

TUNNEL OR DRAIN LICENCE (Sec. 73)

No.

To all whom it may concern:

Take notice that _____ the owner of placer claim
in _____ Mining District, having given security to the amount of _____ for any damage he may do,
has this day obtained a licence from me to run a tunnel (or, drain) from _____ to his said claim. The said licence is granted on these express conditions:—

(Set out conditions, if any.)

Dated at _____ the _____ day of _____ 19 _____

Mining Recorder

R.S., c. 300, Sch. F.

FORM 6

APPLICATION FOR A LEASE TO PROSPECT AND AFFIDAVIT OF
THE APPLICANT (Sec. 91(2))

I, _____ of _____ hereby apply under the *Yukon Placer Mining Act* for a lease to prospect in the manner defined in the said Act on that portion of _____ creek (or river) which may be described as follows:

and I make oath and say:

1. That to the best of my knowledge and belief the land is such as may be located for prospecting purposes under the said Act;
2. That I did on the _____ day of _____ 19 _____, mark out on the ground in accordance in every particular with the said Act the location for which I make this application;
3. That the length of the location, as nearly as I could measure it, is _____ feet, and that the description above given in

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detail sets forth to the best of my knowledge and ability its position;

4. That I staked out the location by planting two legal posts, numbered 1 and 2, respectively, and that No. 1 is the down stream post of the location;

5. That no placer mining claims are now recorded on the tract applied for, and that no placer mining operations are now being conducted thereon;

6. That I make this application in good faith to acquire a prospecting lease for the sole purpose of prospecting and mining to be prosecuted by myself, or by myself and associates, or by my assigns.

Sworn before me at _____, in the Yukon Territory, this _____ day of _____ 19____
A commissioner for taking affidavits in the Yukon Territory (or as the case may be).

R.S., c. 300, Sch. G.

FORM 7

GROUPING CERTIFICATE (Sec. 51)

Fee paid \$ Mining District

In accordance with section 51 of the Yukon Placer Mining Act the owners of the following claims are permitted to group such claims together for the performance of work:

Dated at this day of 19

Mining Recorder (or Commissioner)

R.S., c. 300, Sch. H.

SCHEDULE II

FEES

- 1. For grant of a claim for one year \$10.00
2. For grant of a claim for five years 50.00
3. For renewal of grant of a claim:
For one year 10.00
For two years 20.00

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For three years.....	30.00
For four years.....	40.00
For five years:.....	50.00
4. Recording an abandonment.....	2.00
5. For a grouping certificate:	
(a) Ten claims or under.....	5.00
(b) Over ten claims.....	5.00
For each claim over ten.....	1.00
6. Registration of any document.....	2.00
If it affects more than one claim, for each addition claim.....	1.00
7. For filing any document.....	1.00
8. Abstract of Title:	
For first entry.....	1.00
For each additional entry.....	.10
9. For copies of any documents recorded:	
Up to three folios.....	3.00
For each additional folio.....	.50
10. For grant of water:	
Of 50 inches or less.....	10.00
From 50 to 200 inches.....	25.00
From 200 to 1,000 inches.....	50.00
For each additional 1,000 inches or fraction thereof	50.00

R.S., c. 300, Sch. D.

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YUKON QUARTZ MINING ACT

An Act respecting quartz mining in the Yukon Territory

SHORT TITLE

1. This Act may be cited as the *Yukon Quartz Mining Act*. Short title
R.S., c. 301, s. 1(1).

INTERPRETATION

	Definitions
2. (1) In this Act	
“adjoining claims” means those that come into contact one with the other at some point on the boundary lines, or that share a common boundary ;	“adjoining claims”
“cause” includes any suit or action	“cause”
“Commissioner” means the Commissioner of the Yukon Territory or such person as for the time being is invested with and has the powers of the Commissioner of the Yukon Territory ;	“Commissioner”
“Department” means the Department of Indian Affairs and Northern Development ;	“Department”
“ditch” includes flume, pipe, race, or other artificial means for conducting water by its own weight, to be used for mining purposes ;	“ditch”
“document” means any assignment, transfer bill of sale or other writing, which may in any way affect the title of a mineral claim ;	“document”
“entry” means not only the record of a claim in the books of the mining recorder, but also the grant that may be issued for such claim ;	“entry”
“full claim” means any mineral claim of the full size ;	“full claim”
“judgment” includes “order” or “decree” ;	“judgment”
“legal post” means a stake or post of any kind of sound timber of sufficient length so that when firmly planted in the ground in an upright position, not less than four feet of such post is above ground ; the post must be of such diameter that when squared or faced for eighteen inches from the top end, each face of the squared or faced portion is not less than four inches in width across the face for the full eighteen inches, or if a tree of suitable size is found in position, it may be made into a post by cutting the tree off not less than four feet from the ground, and squaring and facing the upper eighteen inches, each face of the portion	“legal post”

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so squared or faced to be not less than four inches in width ; whether a post is planted or a stump of a tree made into a post, a mound of stones or earth shall be erected around the base of the post, such mound of earth or stones to be not less than three feet in diameter on the ground, and not less than eighteen inches high, cone-shaped and well constructed ;

- "limestone, etc." "limestone, marble, clay, gypsum, or any building stone when mined for building purposes, earth, ash, marl, gravel, sand", as well as any element that may, in the opinion of the Minister, form a portion of the agricultural surface of the land, shall not be considered as mineral within the meaning of this Act ;
- "location line" "location line" means a straight line opened or indicated throughout between No. 1 and No. 2 location posts of a mineral claim, and joining them ;
- "mill-site" "mill-site" means a plot of ground leased under section 117 for the purpose of erecting thereon any machinery or other works for transporting, crushing, reducing or sampling ores, or for the transmission of power for working mines ;
- "mine" "mine" means any land in which any vein, lode, or rock in place, is mined for gold or other minerals, precious or base, as defined in this Act ;
- "mineral" "mineral" means all deposits of gold, silver, platinum, iridium, or any of the platinum group of metals, mercury, lead, copper, iron, tin, zinc, nickel, aluminum, antimony, arsenic, barium, bismuth, boron, bromide, cadmium, chromium, cobalt, iodine, magnesium, molybdenum, manganese, phosphorus, plumbago, potassium, sodium, strontium, sulphur, or any combination of those elements with themselves or with any other elements, quartz, metallic oxides and silicates, and the ores of radium, tungsten, titanium and zirconium, asbestos, emery, mica, mineral pigments, corundum and diamonds ;
- "mineral claim" or "location" "mineral claim" or "location" means a plot of ground staked out and acquired under the provisions of this Act, or under the regulations or orders in council in force prior to the 19th day of July 1924 ;
- "mining district" "mining district" means the mining districts into which the Yukon Territory is divided under authority of the *Yukon Placer Mining Act* ;
- "mining property" "mining property" includes every mineral claim, ditch, mill-site, or water right used for mining purposes, and all other things belonging to a mine or used in the working thereof ;
- "mining recorder" "mining recorder" and "mining recorder's agent" mean the officer appointed for the particular purpose referred to ;

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- "Minister" means the Minister of Indian Affairs and Northern Development; "Minister"
- "record", "register" and "registration" have the same meaning, and mean an entry in some official book kept for that purpose; "record" "register" "registration"
- "representation" or "assessment" means the work to be done, or the payment to be made each year to entitle the owner of a claim to a certificate of work; "representation" "assessment"
- "rock in place" means all rock in place bearing valuable deposits of mineral within the meaning of this Act; "rock in place"
- "saline solution" or "brine" for the purpose of this Act means an aqueous solution of mineral salts occurring in a natural state, and containing more than one per cent of mineral salts in solution; "saline solution" "brine"
- "Territory" means the Yukon Territory; "Territory"
- "vein" or "lode", whenever either of these terms is used "rock in place" shall be deemed to be included. "vein" "lode"

(2) (1) This Act is applicable only to minerals defined as such on territorial lands, situated within the Yukon Territory. Application

(3) All the provisions of this Act apply, and shall be deemed to have applied on and from the 19th day of July 1924, to all mineral claims or locations whether staked out and acquired prior or subsequent to that date. R.S., c. 301, ss. 1, 2; 1953-54, c. 4, s. 12; 1966-67, c. 25, s. 40. Application to mineral claims or locations

DUTIES OF MINING RECORDER

3. Every mining recorder shall keep the following books, to be used for quartz entries: Books to be kept by mining recorder

- (a) record of applications;
- (b) record of leases issued;
- (c) record book; and
- (d) record of documents received. R.S., c. 301, s. 3.

4. Every entry made in any of the mining recorder's books shall show the date upon which the entry is made. R.S., c. 301, s. 4. Date of entry

5. All books of record and documents filed shall, during office hours, be open to public inspection free of charge. R.S., c. 301, s. 5. Inspection of books free

6. A statement of the grants issued and fees collected shall be rendered to the Minister by the mining recorder at least every month, and the statement shall be accompanied by the amount collected, or by the deposit receipts, if the Monthly statement

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money has been deposited to the credit of the Receiver General. R.S., c. 301, s. 6.

Relocation of claims

7. Where a mineral claim has been abandoned or forfeited by any person, the mining recorder may, in his discretion, permit that person to relocate such mineral claim or any part thereof, but the relocation does not prejudice or interfere with the rights or interests of others. R.S., c. 301, s. 7.

Notice of relocation

8. No claim shall be so relocated by or on behalf of the former holder thereof within thirty days of its being so abandoned or forfeited, nor until after notice of the abandonment or forfeiture has been posted up for at least a week in a conspicuous place on the claim and in the office of the mining recorder, nor until a statutory declaration has been filed with the mining recorder that the notice has been so posted. R.S., c. 301, s. 8.

Space for deposit of material

9. The mining recorder may mark out a space of ground for deposit of material from any tunnel, claim or mining ground, upon such terms as he may think just. R.S., c. 301, s. 9.

Safety of public, etc.

10. The mining recorder may summarily order any mining works to be so carried on as not to interfere with or endanger the safety of the public or any employee of such mining works, any public work, highway, mining property or mineral claim, mining claim, bed-rock drain, or bed-rock flume; and any abandoned works shall by his order be either filled up or guarded to his satisfaction. R.S., c. 301, s. 10.

Change of name

11. Where a claim has been recorded under any name, and the owner or his agent is desirous of changing the name, the mining recorder may, upon application being made by such owner or agent, and upon payment of a fee of twenty-five dollars, amend the record accordingly, but that change of name does not in any way affect or prejudice any proceedings or execution against the owners of the claim. R.S., c. 301, s. 11.

WHERE AND BY WHOM CLAIMS MAY BE ACQUIRED

Entry and location

12. (1) Subject to subsection (2), a person eighteen years of age, or over, may personally or by attorney enter, locate, prospect and mine upon any vacant territorial lands in the Yukon Territory, for the minerals defined in this Act, and upon all lands in respect of which the right to so enter, prospect and mine such minerals has been, or is after the 19th day of July 1924 reserved to the Crown.

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(2) Subject to section 46, during any period of twelve months no person is entitled to locate, whether personally, as attorney for another or by an attorney, more than seven mineral claims in the aggregate within a distance of ten miles from any other mineral claim (making a total of eight mineral claims) located by him personally, as attorney or by attorney, during that period.

Limitation on
number of claims

(3) Every power of attorney authorizing a person to enter, locate, prospect or mine pursuant to subsection (1) shall be filed with the mining recorder before the entering, locating, prospecting or mining is undertaken. R.S., c. 301, s. 12.

Power of
attorney

13. (1) There shall be excepted from the provisions of section 12 any land occupied by any building, and any land falling within the curtilage of any dwelling-house, and any land valuable for water-power purposes, or for the time being actually under cultivation, unless with the written consent of the owner, lessee or locatee or of the person in whom the legal estate therein is vested, and any land on which any church or cemetery is situated, and any land lawfully occupied for mining purposes, and also Indian reserves, national parks and defence, quarantine, or other like reservations made by the Government of Canada, except as provided by section 14.

Exceptions

(2) Where two or more claims are contiguous and comprise a group recorded in the name of one person and it was the manifest intention of the locator of such claims as shown by the sketches accompanying the applications for the claims to include as part of the claims all the lands lying within the outside limits of such group and extensions of such outside limits, the vacant lands within such limits and extension, but outside the limits of any claim, shall be open for staking only by the recorded owner of that group; but any such land may upon survey be included in one or more of such claims by a Dominion land surveyor pursuant to this Act.

Vacant lands

(3) Any land that is available only to the recorded owner of claims under subsection (2) and is not included in any claim by the Dominion land surveyor is, upon approval of the survey of such claims by the Surveyor General, available for staking by any person under this Act. R.S., c. 301, s. 13.

Lands not so
included open
for staking

14. No person shall enter upon for mining purposes or shall mine upon lands owned or lawfully occupied by another until he has given adequate security, to the satisfaction of the mining recorder, for any loss or damage that may be thereby caused, and persons so entering, locating, prospecting or mining upon any such lands shall make full compensation to the owner or occupant of the lands for any loss or damage so caused, such compensation, in case of dispute, to be deter-

Security and
compensation

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mined by a court having jurisdiction in mining disputes. R.S., c. 301, s. 14.

SIZE OF CLAIMS AND NUMBER THAT MAY BE ACQUIRED

- Size of claims** **15.** (1) Any person desiring to locate a mineral claim shall, subject to the provisions of this Act with respect to land that may be located for such purpose, enter upon the land and locate a rectangular plot of ground not exceeding one thousand five hundred feet in length by one thousand five hundred feet in breadth.
- Priority of right** (2) Priority of location shall be deemed to convey priority of rights to claims located, but no locator has any prior rights unless and until he has located his claim in accordance with this Act.
- Subject to recording, etc.** (3) Priority of right is in all cases subject to the claim being recorded within the delays specified in this Act, and subsequently maintained in good standing.
- Angles** (4) All angles shall be right angles, except in cases where a boundary line of a previously located claim is adopted as common to both locations.
- Horizontal measurement** (5) In defining the size of a mineral claim it shall be measured horizontally, irrespective of the inequalities of the surface of the ground. R.S., c. 301, s. 15.
- Fractional mineral claims** **16.** Any person of the prescribed age desiring to locate a fractional mineral claim shall, subject to the provisions of this Act with respect to land that may be located for that purpose, enter upon the land and locate any plot of ground lying between and bounded on opposite sides by previously located mineral claims and measuring less than one thousand five hundred feet in length by one thousand five hundred feet in breadth as a fractional mineral claim; such fractional mineral claim need not be rectangular in form and the angles need not necessarily be right angles, and the lines of the previously located mineral claims, whether surveyed or not, between which the fractional mineral claim is located, may be adopted as the boundaries of the fractional mineral claim. R.S., c. 301, s. 16.
- Iron and mica** **17.** (1) The Minister may grant a location for the mining of iron and mica, not exceeding one hundred and sixty acres in area, which shall be bounded by due north and south and east and west lines, and its breadth and length shall be equal.
- Exception as to other minerals** (2) Should any person making any application purporting to be for the purpose of mining iron or mica thus obtain possession of a valuable mineral deposit other than iron or

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mica, his right to that deposit shall be restricted to the area hereinbefore prescribed for other minerals, and the rest of the location in so far as such valuable deposit is concerned, shall thereupon remain in the Crown for such disposition as the Minister may direct. R.S., c. 301, s. 17.

18. The grant issued for such a location shall include the right to the iron and mica only, and shall not include the surface. R.S., c. 301, s. 18. Surface not included

19. All the requirements of this Act as to the location and survey of other claims govern such locations as far as they can be made to apply, and the amount to be expended each year in representation work, or to be paid in lieu thereof, shall be double the amounts prescribed in sections 53 and 54. R.S., c. 301, s. 19. Location and survey of other claims

HOW A CLAIM SHALL BE STAKED

20. (1) Every claim shall be marked on the ground by two legal posts firmly planted in the ground, one at each extremity of the location line, which shall be known as location post No. 1 and location post No. 2. Posts

(2) The location line may have any bearing or direction, but must be a straight line measured horizontally between the location posts. Location line

(3) The distance between post No. 1 and post No. 2 shall not exceed one thousand five hundred feet, but it may be less. R.S., c. 301, s. 20. Distance

21. The inscriptions to be placed on legal posts shall be and remain clearly and legibly marked by knife, marking iron, crayon or pencil. R.S., c. 301, s. 21. Inscriptions

22. On location post No. 1 on the side facing in the direction of location post No. 2 shall be marked, beginning near the top of the portion faced and extending downward, the following: Marking on location post No. 1

- (a) No. 1;
- (b) the name given to the claim;
- (c) the letter indicating the direction of location post No. 2—"N" for north or northerly, "S" for south or southerly, "W" for west or westerly, and "E" for east or easterly;
- (d) the number of feet lying to the right and the number of feet lying to the left of the location line—"R" for right and "L" for left;
- (e) the month and date of the month upon which the location was made;

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- (f) the year; and
- (g) the name of the person locating the claim. R.S., c. 301, s. 22.

Marking on
location post No.
2

23. On location post No. 2 shall be marked on the side of that post facing in the direction of location post No. 1, beginning near the upper end of the portion faced and extending downward, the following:

- (a) No. 2;
- (b) the name given to the claim;
- (c) the month and date of the month upon which the location was made;
- (d) the year; and
- (e) the name of the person locating the claim. R.S., c. 301, s. 23.

Stand of locator

24. The locator standing at location post No. 1 and facing in the direction of post No. 2 shall have the right and left of the location line to his right and left respectively. R.S., c. 301, s. 24.

Marking of
fractional claim

25. The markings on the location posts of a fractional claim shall be the same as those upon a claim of the full size, with the addition of the letter "F" for fractional immediately below the name given to the claim, and below this the length of the location line in feet. R.S., c. 301, s. 25.

"Witness post"
to be marked
"W.P."

26. In case it is found impossible, owing to the presence of water or other insurmountable obstacle, to set post No. 2 in its proper position at one end of the location line, the locator may set up a "witness post" on the location line as near as possible to where post No. 2 should have been placed, and upon this witness post he shall place, in addition to that already prescribed in this Act to be placed on post No. 2, the letters "W.P." and the distance in feet and the direction of the point at which post No. 2 would have been placed had it been possible to do so. R.S., c. 301, s. 26.

When "witness
post" considered
to be location
post No. 2

27. (1) If a locator marks his location by means of a witness post and it is subsequently ascertained to the satisfaction of the Commissioner that such action was not necessary, and that it was possible at the time to set post No. 2 in its proper place on the location line, then such witness post shall be considered and dealt with as location post No. 2 of the claim and shall be regarded as the termination of the location line.

No witness post
at No. 1

(2) Location post No. 1, however, shall not under any circumstances be marked with a witness post. R.S., c. 301, s. 27.

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28. When a claim has been located the locator shall immediately mark the location line between posts No. 1 and No. 2 so that it can be distinctly seen throughout its entire length; in a timbered locality, the marking shall be done by blazing trees and cutting underbrush, and in a locality where there is neither timber nor underbrush the locator shall set legal posts or erect monuments of earth or rock not less than eighteen inches high and three feet in diameter at the base. R.S., c. 301, s. 28. Marking by holder when claim located

29. (1) The sides of a mineral claim located as of the full size shall be parallel to the location line of such claim, subject, however, to any claims previously located, and the ends of a mineral claim shall be at right angles to the location line, subject, however, to interference with claims already located. Sides of mineral claim located

(2) The location line may form one of the sides of a mineral claim, or a portion of the location may lie on either side of such line, but the number of feet lying to the right of the location line and the number of feet lying to the left of the location line shall not exceed in all one thousand five hundred feet. R.S., c. 301, s. 29. Location line as one of the sides

30. The following is an example of inscriptions to be placed on posts: Examples

Inscription on location post No. 1 No. 1 "Apex" E. 800 R. 700 L. Aug. 10, 1916 B. J. Box	Inscription on location post No. 2 No. 2 "Apex" Aug. 10, 1916 B. J. Box
	Inscription on witness post W.P. "Apex" Aug. 10, 1916 B. J. Box 200 feet N.

R.S., c. 301, s. 30.

31. (1) Particulars of all inscriptions put on No. 1 and No. 2 posts shall be furnished by the locator to the mining. Particulars of inscriptions

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recorder in writing at the time the claim is recorded, and shall form a part of the record of such claim.

Plan to be submitted

(2) The locator shall submit with his application a plan in duplicate showing as clearly as possible the position of the location applied for in its relation to the prominent topographical features of the district and to the adjoining claims or some other known point and the position of the stakes by which the location is marked on the ground. R.S., c. 301, s. 31.

Validity of location

32. Failure on the part of any locator of any mineral claim located in the Yukon Territory prior to the 19th day of July 1924 to have complied in every respect with the provisions of the mining regulations or of this Act governing the location of such mineral claims, as to exact size of location posts and discovery posts, the erection of a mound of stones or earth around the base of posts, and failure to have discovered mineral or minerals in place within the area of such claims or on the location, shall be deemed not to invalidate such location, or the record and title of such claims, if there has been an approximate and substantial compliance with the mining regulations or law in force and regulating and governing the location and recording of mineral claims at the time of the location of such claims, and if the non-observance of any of the requirements as to location, application and recording is not of a character calculated to mislead other persons desiring to locate claims in the vicinity. R.S., c. 301, s. 32.

REMOVING OR DEFACING POSTS

Removing or defacing posts

33. (1) It shall not be lawful to move post No. 1; post No. 2 may be moved only by a Dominion land surveyor when it is found upon making a survey that the distance between post No. 1 and post No. 2 exceeds one thousand five hundred feet, in order to place post No. 2 at a distance of one thousand five hundred feet from post No. 1 on the line of location.

Distance less than 1,500 feet

(2) When the distance between post No. 1 and post No. 2 is less than one thousand five hundred feet the claim shall not extend beyond post No. 2 as originally placed. R.S., c. 301, s. 33.

Unlawful moving or defacing

34. It is not lawful for any person to move any location post or to deface or to alter in any manner the notices on the same except as provided in this Act. R.S., c. 301, s. 34.

Penalty

35. Any person removing or disturbing with intent to remove any legal post, stake, picket or other mark placed under this Act or defacing or altering in any manner the notices on any of the legal posts placed thereon under this

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Act, is on summary conviction liable to a fine not exceeding one hundred dollars and costs; and in default of payment of the fine and costs to imprisonment for any period not exceeding six months. R.S., c. 301, s. 35.

36. When a fractional mineral claim has been located between previously located and unsurveyed mineral claims, and when any such previously located mineral claims are surveyed, if any of the posts of the fractional mineral claim are found to be on the previously located mineral claims, the location of the fractional mineral claim is not invalid by reason of the location posts of the fractional mineral claim being on the previously located mineral claims, and the owner of the fractional mineral claim may, by obtaining the permission of the mining recorder of the district, move the posts of the fractional mineral claim and place them on the surveyed line of the adjoining previously located mineral claims. R.S., c. 301, s. 36.

Moving of posts of fractional claim with permission

37. Nothing in this Act shall be construed to prevent Dominion land surveyors in their operations from taking up posts or other boundary marks when necessary. R.S., c. 301, s. 37.

Privilege of Dominion land surveyors

RECORDING

38. (1) Every person locating a mineral claim shall record it with the mining recorder of the district within which the claim is situated within fifteen days after the location thereof if located within ten miles of the office of the recorder.

Delays for recording mineral claims

(2) One additional day shall be allowed for such record for every additional ten miles or fraction thereof.

Additional time

(3) Such record shall be made in a book to be kept for the purpose in the office of the mining recorder in which shall be inserted the name of the claim, the name of the locator, the locality, the direction and length of the line from post No. 1 to post No. 2, the date of the location, and the date of record.

Record to be made

(4) Such record shall be, as nearly as may be possible, in Form 3 of Schedule I, which form, duly completed and signed, shall be given by the mining recorder to the locator or his agent.

Form 3

(5) A claim that has not been recorded within the prescribed period shall be deemed to have been abandoned and forfeited, without any declaration of cancellation or abandonment on the part of the Crown. R.S., c. 301, s. 38.

When claim is deemed abandoned

39. (1) In the event of the claim being more than one hundred miles from the recorder's office, and situated where

"Emergency recorder"

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other claims are being located, the locators, not less than five in number, are authorized to meet and appoint one of their number an emergency recorder, who may receive applications for claims located in accordance with this Act.

Record of application

(2) The emergency recorder shall note on each application the day upon which the application was received by him and the amount of fees paid in respect thereto. R.S., c. 301, s. 39.

To notify the mining recorder

40. (1) The emergency recorder shall, at the earliest possible date after his appointment, notify the Government mining recorder for the district in which the claims are that such appointment has been made, and he shall deliver to that mining recorder the applications that he may have received for mineral claims and the fees that he may have collected for recording those claims.

Duty of recorder

(2) The Government mining recorder shall then grant to each person from whom the emergency recorder has accepted an application and the fee prescribed by this Act, an entry for his claim in Form 3 of Schedule I.

Date of entry

(3) Each such entry shall date from the day the emergency recorder accepted the application and fee.

Failure of emergency recorder to notify

(4) Where the emergency recorder fails, within four months, to notify the mining recorder of his appointment and to deliver to him the applications for claims received and the fees collected, the mining recorder may refuse to grant entry for such claims. R.S., c. 301, s. 40 .

Accompanying affidavit

41. (1) No mineral claim shall be recorded unless the application is accompanied by an affidavit or solemn declaration made by the applicant in Form 1 of Schedule I, or, if it is a fractional claim, in Form 2.

Filing of application

(2) Each application shall be filed in duplicate with the mining recorder. R.S., c. 301, s. 41.

Bona fide diligence on part of locator

42. (1) Failure on the part of the locator of a mineral claim to comply in every respect with the foregoing provisions shall not be deemed to invalidate such location, if upon the facts it appears to the satisfaction of the mining recorder that the locator has staked out the location as nearly as possible in the manner prescribed, and that there has been on his part a *bona fide* attempt to comply with all the provisions of this Act, and that the non-observance of any of the formalities hereinafter referred to is not of a character calculated to mislead other persons desiring to locate claims in the vicinity.

Remedying defaults

(2) The mining recorder may, before granting entry, require the locator to immediately remedy any material

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defaults committed in the observance of the formalities required by this Act in respect of the location of a mineral claim, and if such defaults are not remedied within a period to be fixed by the mining recorder, and to his satisfaction, entry may be refused. R.S., c. 301, s. 42.

43. (1) Alocator is not entitled to a record of a mineral claim until he has furnished the mining recorder with all the particulars necessary for such record. R.S., c. 301, s. 43. Particulars to be supplied

44. (1) The record of a mineral claim shall be made at the office of the mining recorder of the district in which the claim is situated, but the application may be made to a mining recorder's agent to be forwarded to the mining recorder for the district in which the claim is situated. Date of receipt of fees

(2) The date upon which the application and the fee may be received in the office of the mining recorder for the district in which the claim is situated governs, and shall be considered the date of the application. R.S., c. 301, s. 44. Presumption of date of application

45. (1) As soon as reasonably possible after the recording of the claim the holder of the claim shall affix or cause to be affixed securely to each of the posts of the said claim a metal tag plainly marked or impressed with the recorded number and letter or letters, if any, of the claim and in the event of default, the mining recorder may after a hearing, cancel the entry for the claim upon the application of any person who, in the opinion of the mining recorder, has been misled by the lack of such tags; notice of the hearing together with a copy of the application shall be served on the recorded owner of the claim in the manner directed by the mining recorder at least thirty days before the date fixed for the hearing. Tagging of claims

(2) The mining recorder on application shall supply the numbered tags, mentioned in subsection (1), free of charge. Supply of tags

(3) This section applies in respect of all claims recorded after the 1st day of June 1948. R.S., c. 301, s. 45. Application

46. (1) Where a tunnel is run for the development of a vein or lode, the owner of such tunnel, in addition to any mineral claim legally held by him, has the right to all veins or lodes discovered in such tunnel, if the ground containing such veins or lodes is marked out by him as a mineral claim, and such veins or lodes are not included in any existing mineral claim. Rights of owner of tunnel

(2) Any money or labour expended in constructing a tunnel to develop a vein or lode shall be deemed to have been expended on such vein or lode. R.S., c. 301, s. 46. Money and labour

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Rights of holder of claim **47.** The holder of a mineral claim is entitled to all minerals to which this Act applies that may lie within the boundaries of his claim continued vertically downwards. R.S., c. 301, s. 47.

Location on Sunday **48.** Any location made on Sunday or any public holiday is not for that reason invalid. R.S., c. 301, s. 48.

Chattel interest for one year **49.** The interest of the holder of a mineral claim shall, prior to the issue of a lease, be deemed to be a chattel interest, equivalent to a lease of the minerals in or under the land for one year, and thence from year to year, subject to the performance and observance of all the terms and conditions of this Act. R.S., c. 301, s. 49.

ABANDONMENT

Abandonment and its effect **50. (1)** The holder of a mineral claim may at any time abandon or relinquish the claim if he has complied in every respect with this Act and all payments on account of rental or other liability to the Crown, due by him in connection with that claim, have been fully made.

Notice **(2)** Notice in writing of his intention to abandon shall be given to the mining recorder, and from the date of the record of the notice all interest of the holder in such claim ceases. R.S., c. 301, s. 50.

What holder on abandonment may take from claim **51.** When the holder of a mineral claim abandons it he has the right to take from the claim any machinery and any personal property that he may have placed on the claim, and any ore that he may have extracted therefrom, within such time as shall be fixed by the mining recorder, if payments due on account of rental or other liability to the Crown in connection with the claim have been fully made. R.S., c. 301, s. 51.

GROUPING

Number of adjoining claims that may be grouped **52. (1)** Adjoining claims, not exceeding sixteen in number, may be grouped together for the performance of work by the owner or owners thereof upon filing with the mining recorder at any time before the recording of the work a notice of his or their intention so to group such claims and obtaining a certificate in Form 6 of Schedule I.

Work on one or more of claims **(2)** The holder or holders of a certificate in Form 6 of Schedule I may perform on any one or more of the claims in respect of which the certificate was issued all or any part of the work required to entitle him or them to a certificate of work for each claim so held by him or them, but if the work is

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not done or if payment in lieu thereof is not made as prescribed in section 54, the claims shall be deemed to be vacant and abandoned without any declaration of cancellation or forfeiture on the part of the Crown.

(3) Claims in respect of which a certificate in form 6 of Schedule I has been issued and claims owned by one person within a mining district, may, on application by the owners thereof, be made renewable on any one date.

Claims renewable on application

(4) The mining recorder shall charge, for each claim, one dollar and a quarter for each three months or portion thereof that it is necessary to extend the record to make claims renewable on the same date, and the work, or payment in lieu thereof, required for the fractional part of the year for which each claim is extended shall be allowed at the rate of twenty-five dollars for each three months or fraction thereof, and such payment or work shall be made or performed prior to the date upon which all are so made renewable. R.S., c. 301, s. 52.

Conditions of renewal

REPRESENTATION

53. (1) Any person having duly located and recorded a mineral claim is entitled to hold it for the period of one year from the date of recording the claim, and thence from year to year without the necessity for further recording; and during that year and each succeeding year the locator shall do, or cause to be done, work on the claim itself to the value of one hundred dollars, and shall within fourteen days after the expiration of the year, satisfy the mining recorder that such work has been done, by an affidavit in Form 4 of Schedule I, and setting out a detailed statement of the work, and shall obtain from the mining recorder a certificate in Form 5 of Schedule I that such work has been done.

Claim good for one year and yearly renewal

(2) All work done outside of a mineral claim with intent to work the claim shall, if such work has direct relation and is in direct proximity to the claim, be deemed, if to the satisfaction of the mining recorder, for the purpose of this section, to be work done on the claim.

Work done outside of claim

(3) Where more work is performed by or on behalf of the recorded owner of a claim than is required by this Act during any year to be performed, the excess work up to a value of four hundred dollars, upon proof that it has been performed in accordance with this Act, shall be applied by the mining recorder upon work required to be done during the subsequent year or years; excess work may only be recorded during the year in which it is performed or within fourteen days of the expiry of that year.

Where more work done than required

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Geological investigations and aerial reconnaissance

(4) Where it is shown that a recorded owner has done work or has had work performed for him in geological investigations, aerial reconnaissance or other like preliminary operations that appear to be essential to the successful location of commercial ore bodies on a claim or a number of claims grouped together for the performance of work, such work or any portion thereof may be considered by the Commissioner, in his discretion, as representation work if it has been performed in the first three years subsequent to the date of the record of the claim or group of claims affected; but such work shall not be accepted in satisfaction of the requirements for a certificate of improvements nor accepted as excess representation work on any claim beyond the termination of the third year after the date of the record of such claim.

Moratorium on annual representation work

(5) The Governor in Council may, by regulation, upon the report of the Minister that due to the market price of metals and other general conditions over which the owners of mineral claims exercise no control, the margin of profit that might reasonably be derived from the efficient and economical operation of such claims has, in the opinion of the Minister, been practically eliminated or for any other reason that to the Minister may appear to be sufficient, grant such relief as to the annual representation work or payment in lieu thereof as may be necessary under the circumstances.

Misrepresentation, or removing, or destroying posts or marks

(6) Should it be proved to the satisfaction of the mining recorder that any person has

- (a) been guilty of misrepresentation in any of the statements required under this Act to be made by him under oath, or
- (b) removed or destroyed with intent to remove, or defaced any legal post or stake or other mark placed under this Act,

the mining recorder may, in his discretion, order that such person be debarred from the right to obtain entry for, or a certificate of work in connection with, any mineral claim for any length of time the mining recorder deems advisable.

Appeal

(7) An appeal lies from any such decision of the mining recorder to the Commissioner. R.S., c. 301, s. 53.

Holding claim on payment of \$100

54. (1) The holder of a mineral claim may, in lieu of the work required to be done by section 53 on a claim each year, pay to the mining recorder in whose office the claim is recorded the sum of one hundred dollars, and receive from the mining recorder a receipt for the payment.

Holder entitled to a certificate

(2) Such payment and the record thereof in any year relieves the person making it from the necessity of doing any work during the year in and for which, and upon the claim in

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respect of which, the payment is recorded, and he is entitled to a certificate from the mining recorder that such payment has been made and entitles him to hold the claim for the ensuing year. R.S., c. 301, s. 54.

55. (1) If the amount of work or payment in lieu thereof prescribed by this Act is not done or made during the year, the claim lapses on the expiry of the year, and is forthwith open for locati6n under this Act without any declaration of cancellation on the part of the Crown.

When claim expires

(2) If the owner of the claim has performed the required work during the year, but has failed to furnish the prescribed evidence of that work having been performed, the mining recorder may issue a grant to another person who has duly located, in the manner prescribed in this Act, the area embraced in the claim, or any portion thereof; but the owner may, within six months after the expiration of the year, apply for a renewal grant and for the cancellation of any other grant issued in respect of the claim, or for any portion thereof, and the latter grant shall be cancelled by the mining recorder; or if a grant has not been issued for the claim, any pending application for the claim shall be refused, upon proof to the satisfaction of the mining recorder that the required work was performed by or on behalf of the owner, and upon the owner paying the expenses to which the person locating the claim may have been put in locating and applying for the claim, and if a grant has been issued therefor, paying also all expenses to which that person may have been put in obtaining the same, and also compensation for any *bona fide* work that he may have performed thereon by reason of such grant.

If evidence of work not furnished

(3) Where the owner of a claim fails to obtain the required certificate of work within the time specified in section 53, the fee for that certificate, if paid within three months after the year has expired, is fifteen dollars, and after three months and within six months from such date is twenty-five dollars.

Fee for certificate

(4) If the owner of a claim fails within a period of six months after the expiration of the year to satisfy the mining recorder that the prescribed work has been done and to obtain a certificate in Form 5 of Schedule I, his interest or right in, to, or in respect of, the said claim is, at the expiration of such period of six months, *ipso facto*, void, without any notice or declaration of cancellation by or on behalf of the Crown, and without judicial inquiry, notwithstanding the fact that the prescribed work may have been duly performed on the claim within the year as required by this Act, but not proved as aforesaid. R.S., c. 301, s. 55.

If evidence of work not furnished within six months

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Regulations to protect service personnel from forfeiture of claims

56. The Governor in Council may make regulations exempting members of the armed forces of Her Majesty or any of Her Majesty's allies, during the period of their service as such and one year thereafter, from the provisions of this Act respecting forfeiture, for non-performance of work or non-payment of assessments, or rentals, of mineral claims held by them at the time of their enlistment. 1966-67, c. 96, s. 64.

When fractional claim is less than 25 acres

57. (1) If the recorded owner of a fractional mineral claim furnishes evidence, to the satisfaction of the mining recorder, that the area of that claim is less than twenty-five acres, the expenditure required to be incurred each year in mining operations on such fractional claim, or the payment to be made in lieu thereof, to entitle the recorded owner to a certificate of work is one-half that required under this Act, in respect of a full claim.

Where more than 25 acres

(2) Where, upon survey, a fractional claim in connection with which such representations have been made is found to contain twenty-five acres, or more, the recorded owner thereof shall pay to the mining recorder whatever additional amount may be necessary to represent a full claim, with interest, before he is entitled to receive a certificate of improvements in connection with such claim. R.S., c. 301, s. 57.

Co-owners and their interests

58. Where two or more persons own a claim each such person shall contribute, proportionately to his interest, to the work required to be done by section 53 and to the payment of renewal fees, and if it is proved to the mining recorder after a notice of hearing has been served on all parties interested, in the manner directed by the mining recorder, that any co-owner has not so contributed, his interest shall become vested by order of the mining recorder in the other co-owners in proportion to their respective interests. R.S., c. 301, s. 58.

DISPUTES

Priority of location to govern disputes

59. In case of any dispute as to the location of a mineral claim the title to the claim shall be recognized according to the priority of such location, subject to any question as to the validity of the record itself, and subject further, to the locator having complied with all the terms and conditions of this Act. R.S., c. 301, s. 59.

Presumption of perfect title

60. Upon any dispute as to the title to any mineral claim, no irregularity happening prior to the date of the record of the last certificate of work affects to title thereto, and it shall be assumed that up to that date the title to such

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claim was perfect, except upon suit by the Attorney General of Canada based upon fraud. R.S., c. 301, s. 60.

61. Whenever through the acts or default of any person other than the recorded owner of a mineral claim or his agent by him duly authorized, the evidence of the location or record on the ground, or the situation of a mineral claim has been destroyed, lost or effaced, or is difficult of ascertainment, effect shall be given to same as far as possible, and the court has power to make all necessary inquiries, directions and references in the premises, for the purpose of carrying out the object hereof, and vesting title in the first *bona fide* acquirer of the claim. R.S., c. 301, s. 61.

Power of court to vest title to claim

62. No person shall suffer from any acts of omission or commission, or delays on the part of any Government official, if such can be proved. R.S., c. 301, s. 62.

Omissions by Government official

TITLE

63. (1) Payment may be made to the mining recorder of the sum of five hundred dollars in lieu of representation on a claim of the ordinary size, and in the case of a claim acquired under section 17 payment of one thousand dollars may be made in lieu of such representation.

Payments to be made to recorder

(2) In the case where payment in lieu of representation is made, the recorded owner of the claim shall comply with all other provisions of this Act, except those provisions that apply solely to the work required to be done on the claim. R.S., c. 301, s. 63.

Compliance with other provisions

64. (1) Whenever the lawful holder of a mineral claim has complied with the following requirements, to the satisfaction of the mining recorder, he is entitled to receive from the recorder a certificate of improvements, in Form 7 of Schedule I, in respect of such claim, unless proceedings by a person claiming an adverse right under section 69 have been taken :

Certificate of improvements

- (a) done or caused to be done work on the claim in developing a mine to the value of five hundred dollars, exclusive of the cost of all houses, buildings and other like improvements, or made payment in lieu of work as provided in section 54; the value of the work done, as assessed by the mining recorder, and the amount paid and accepted in lieu of work shall together be equal to at least five hundred dollars; in the case of a fractional claim, however, the work to be done or the payment to be made in lieu thereof shall be that specified in section 57; for the purposes of this section, work done on a claim by a predecessor or predecessors in title

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shall be deemed to have been done by the person who received a transfer of such claim; the cost of the survey not to exceed one hundred dollars, may be counted as work done on the claim, if it has been accepted in lieu of representation work;

- (b) found a vein or lode within the limits of such claim;
- (c) had the claim surveyed at his own expense in accordance with instructions from the Surveyor General, by an authorized Dominion land surveyor, and had the survey thereof duly approved;
- (d) has posted in some conspicuous part of the land embraced in the survey a copy of the plan of the claim signed and certified as accurate under oath by the surveyor, and a legible notice in writing in Form 8 of Schedule I, of his intention to apply for a certificate of improvements, and has also posted a similar notice in the mining recorder's office; such notice shall contain
 - (i) the name of the claim,
 - (ii) the name of the lawful holder thereof,
 - (iii) his intention to apply for a certificate of improvements at the end of sixty days for the purposes of obtaining a lease, and
 - (iv) the date of the notice;
- (e) inserted a copy of such notice in a Canadian newspaper published in and circulating in the district in which the claim is situated (such paper to be approved by the mining recorder) for at least sixty days prior to such application, which insertion can be made at any time after the posting of the notice on the claim; if no newspaper is published in the district, then the notice shall appear in the Canadian newspaper published nearest to the district;
- (f) has filed with the mining recorder a copy of the surveyor's original plan of the claim, signed and certified as accurate under oath by the surveyor, immediately after posting the notice on the claim of his intention to apply for a certificate of improvements; and
- (g) filed with the mining recorder an affidavit of the holder of the claim, or his duly authorized agent, in Form 9 of Schedule I.

Mining recorder
to forward .

(2) At the expiration of the term of the said publication, if no action has been commenced and notice thereof filed with the mining recorder, he shall forward to the owner or agent the certificate of improvements issued, and to the Department a copy thereof, together with the several documents referred to above, and a certificate in Form 8 of Schedule I showing that the notice provided by paragraph (1)(d), or by

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section 80 has been posted in his office, and the plan deposited for reference therein from the date of the first appearance of the said notice in the nearest local newspaper and continuously therefrom for a period of at least sixty days, and containing the full christian and surname of the recorded owner, or of each of the recorded owners, as well as their occupations and respective interests.

(3) A certificate of improvements shall not be issued until a report has been furnished by an officer of the Department, or some person satisfactory to the mining recorder, to the effect that upon inspection he was satisfied that the required expenditure in developing a mine had been actually incurred, and that a vein or lode had been found within the limits of the claim.

Certificate not to be issued until report made

(4) Delay in having an inspection made after the recorded owner of a mineral claim has fully complied with the above requirements does not render it necessary for that owner to perform further representation work, or make payment in lieu of work because of such delay. R.S., c. 301, s. 64.

Effect of delay

65. In case a claim is situated in a remote part of the country, very difficult of access, where other claims have not been recorded, and where other persons are not engaged in prospecting, and where no newspaper is published within a distance of one hundred miles, the Commissioner may, in his discretion, waive posting of notice on the claim and of its publication in a newspaper as provided in paragraphs 64(1)(d) and (e). R.S., c. 301, s. 65.

When posting of notice may be waived

66. A certificate of improvements when issued as aforesaid shall not be impeached in any court on any ground except that of fraud. R.S., c. 301, s. 66.

Ground of impeachment

67. After the issue and recording of a certificate of improvements, and while the certificate is in force but a lease not yet issued, it is not necessary to do any work on the claim. R.S., c. 301, s. 67.

When work not necessary

68. The holder of a mineral claim for which a certificate of improvements has been granted and recorded is entitled to a lease of the claim upon payment being made within three months of the rental and fee prescribed by Schedule II. R.S., c. 301, s. 68.

When holder entitled to lease

ADVERSE RIGHT

69. (1) Where any person claims an adverse right of any kind, either to possession of the mineral claim referred to in the application for certificate of improvements, or any part

Procedure in case of adverse rights

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thereof, or to the minerals contained therein, he shall, within sixty days after the first publication in a newspaper, as provided by this Act, of the notice referred to in paragraph 64(1)(e) or in section 80, but not later, unless such time is extended by special order of the court upon cause being shown, commence legal action to determine the question of the right of possession or otherwise enforce his claim and shall file a copy of the writ, information, bill of complaint, or other initiatory proceeding in the action with the mining recorder of the district or mining division in which the claim is situated within twenty days from the commencement of the action, and shall prosecute the action with reasonable diligence to final judgment, and failure so to commence or so to prosecute shall be deemed to be a waiver of the plaintiff's claim.

After final judgment

(2) After final judgment has been rendered in the action, the person, or any one of the persons entitled to possession of the claim or any part thereof, may file a certified copy of the claim in the office of the mining recorder.

Certificate

(3) After the filing of the final judgment, and upon compliance with all the requirements of section 64, such person or persons are entitled to the issue to him or to them of a certificate of improvements in respect of the claim or the portion thereof that he or they appear from the decision of the court rightly to possess. R.S., c. 301, s. 69.

Adverse claim affecting only portion of ground

70. (1) Where an adverse claim affects only a portion of the ground for which application is made for a certificate of improvements, the applicant may relinquish the portion covered by the adverse claim, and still be entitled to a certificate of improvements for the undisputed remainder of his claim, upon complying with the requirements of this Act.

Judgment

(2) When judgment in such a case is rendered by the court a memorandum of the judgment shall be entered in the "record book" by the mining recorder; and if by any judgment the original boundaries of any claim are changed, a plan made by a Dominion land surveyor, and signed by the judge by whom the judgment has been given, shall be filed with the mining recorder, who shall forward it to the Department. R.S., c. 301, s. 70.

ADDRESS FOR SERVICE

Endorsations on application

71. Every application for a mineral claim and every other application, and every transfer or assignment of a mineral claim, or of an interest therein, acquired under this Act, shall contain, or shall have endorsed thereon, the place of residence and the post office address of the applicant,

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transferee or assignee, and his occupation; and no application, transfer or assignment shall be accepted or recorded unless it conforms with this provision. R.S., c. 301, s. 71.

WHAT ENTRY OR LEASE CONVEYS

72. (1) The holder of a mineral claim, by entry or by lease, located on vacant territorial lands is entitled to all minerals within the meaning of this Act found in veins, lodes or rock in place, and whether such minerals are found separate or in combination with each other in, upon or under the lands included in such entry or lease; together with the right to enter upon and use and occupy the surface of the claim, or such portion thereof and to such extent as the Minister may consider necessary, for the efficient and miner-like operation of the mines and minerals contained in the claim, but for no other purpose; including the right to cut free of dues such of the timber or the claim or such portion thereof as may be necessary for the working of the claim, but not for sale or traffic, except where such timber has been granted or disposed of prior to the date of entry.

To what holder of mineral claim entitled

(2) The timber agent, however, may permit any person to cut and remove from the claim, timber for his own use for mining purposes, when such timber cannot otherwise be had within a reasonable distance, but no such permit conveys the right to cut or remove timber required by the holder of the claim for his mining operations actually in progress.

Timber for owner's use

(3) The Minister may, upon application, grant to the holder of a mineral claim, in good standing, located on vacant territorial lands, and acquired by entry or by lease, a lease of the whole or any portion of the available surface rights of such mineral claim at a rental of one dollar an acre per annum, payable yearly in advance.

Lease of surface rights

(4) The term of such surface lease shall not exceed the term of the record grant or lease issued for the minerals under this Act or former mining regulations, and shall be appurtenant to such grant.

Term of lease

(5) The Minister may at any time, by giving the lessee three months notice in writing of his intention, terminate such surface lease, without compensation to the lessee for the termination or for any buildings or other improvements that he may have placed upon the location, but the lessee may be given the privilege of removing from the location any such buildings and improvements that may have been placed thereon by him.

Termination of lease

(6) The lessee shall not assign, transfer or sublet the rights described in such surface lease, or any portion thereof, with-

Consent of Minister

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out the consent in writing of the Minister being first obtained. R.S., c. 301, s. 72.

Timber reserved

73. (1) The timber on a mineral claim shall, subject to the rights existing at the time of the application therefor, be reserved until the mining recorder certifies that the timber is required for use in connection with mining operations actually in progress on such mineral claim, when the right to use such timber, or any portion thereof, free of dues, may be given the holder of such mineral claim by the Crown timber and land agent with the approval of the Commissioner.

Authorizing permit

(2) The Commissioner, however, may authorize the timber agent to issue a permit to any person to cut and remove from such mineral claim timber required by him for his own use in mining operations when such timber cannot otherwise be obtained within a reasonable distance of the place of his mining operations. R.S., c. 301, s. 73.

Effect when prospecting rights reserved

74. A lease of a mineral claim located on lands the surface rights of which have been disposed of but the right whereon to enter, prospect and mine for minerals has been reserved to the Crown, conveys to the lessee the minerals within the meaning of this Act found in veins or lodes, or rock in place, whether such minerals are found separately or in combination with each other, that may be in, upon, or under the land described in the lease, but conveys no right of entry upon such surface. R.S., c. 301, s. 74.

Reservation of timber

75. Where the mineral claim is located on land lawfully occupied under a timber licence the lease conveys the minerals within the meaning of this Act found in veins or lodes, or rock in place, subject to section 14, but reserves the timber. R.S., c. 301, s. 75.

When right to mine gold and silver reserved

76. A lease of a mineral claim located on lands the surface rights of which have been disposed of but the right whereon to enter and mine gold and silver has been reserved to the Crown, conveys to the lessee the right to the gold and silver found in veins or lodes, or rock in place, that may be in, upon, or under the land described in the lease, but conveys no right of entry upon the surface. R.S., c. 301, s. 76.

Water for mining purposes

77. A lease of a mineral claim issued under this Act reserves to the Crown such right or rights-of-way and of entry as may be required under any law or regulation in that behalf in force on or after the 19th day of July 1924 in connection with the construction, maintenance and use of works for the conveyance of water for mining operations. R.S., c. 301, s. 77.

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78. Where two or more persons have the right of renewing a lease from the Crown, each such person shall proportionately to his interest contribute to the payment of rental and fees for the renewal of that lease, and if it is proved to the Commissioner after a notice of hearing has been served on all parties interested, in the manner directed by the Commissioner, that one of those persons has not contributed and that the other person or persons have paid the full rental and fees for the renewal of the lease, the Minister may issue the lease to the person or persons who have paid the rental and fees. R.S., c. 301, s. 78. Joint applicants for renewal

SURVEYS

79. (1) The recorded owner of a mineral claim shall have a survey thereof made at his own expense by a duly qualified Dominion land surveyor under instructions from the Surveyor General within one year from the date upon which notification by the Minister to do so may be sent to him. Survey after notice from Minister

(2) Such notification shall not be given until the expiration of at least one year from the date upon which the claim was recorded. Notice

(3) If the survey is not made, and if the returns of the survey are not received and approved by the Surveyor General within one year from the date of notification, the entry granted for the mineral claim is subject to immediate cancellation in the discretion of the Minister. If survey not made

(4) The owner of a claim may, however, have such survey made at any time after obtaining record without any notification having been sent to him to do so. R.S., c. 301, s. 79. Survey made without notice

80. (1) The cost of a survey of a mineral claim, made in accordance with paragraph 64(1)(c), may be accepted in lieu of representation work on the claim for the year in which the survey is made; and the survey so made shall be accepted as definitely establishing the boundaries of the claim, if notice of the survey in Form 9 of Schedule I is immediately inserted, for a period of not less than sixty days, in a newspaper published in or circulating in the district in which the claim is situated, such paper to be approved by the mining recorder, and if the owner of the claim prior to the first appearance of this advertisement causes to be posted in a conspicuous spot on the claim, and in the office of the mining recorder for the district, a notice in the same form of his intention to advertise the survey of the claim, and also a copy of the plan of the survey prepared and certified correct, under oath, by a Dominion land surveyor. Cost of survey

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- Survey defining boundaries** (2) The survey shall be accepted as defining absolutely the boundaries of the claim surveyed, if it remains unprotested during the period of publication, and if it has been duly approved by the Surveyor General.
- Procedure** (3) If within the time specified the survey is protested the protest shall be heard and decided upon by procedure similar to that provided for in section 69. R.S., c. 301, s. 80.
- Duties of surveyor** **81.** (1) The surveyor shall accurately define and mark the boundaries of such claim on the ground in full compliance with the instructions issued to him, and shall, in addition to other inscriptions placed on each of the posts marking the angles or corners of the claim, inscribe thereon clearly and legibly, by means of a cutting instrument, the name of the claim so surveyed, and shall, on completion of survey, forward to the Surveyor General at Ottawa the original field notes and plan signed and certified as accurate under oath.
- Evidence** (2) After a certificate of improvements has issued in respect of any claim so surveyed, *prima facie* proof of its location upon the ground may be given by any person who has seen and who can describe the position of such posts purporting to be marked as aforesaid. R.S., c. 301, s. 81.
- When Dominion land surveyor may include fraction** **82.** Where either post No. 1 or post No. 2 of a mineral claim is on the boundary line of a previously located claim, and the boundary line is not at right angles to that location line, the Dominion land surveyor when making the survey may include the fraction so created within the claim that is being surveyed, if that fraction is available and open to disposal and the claim including the fraction does not exceed in area sixty acres. R.S., c. 301, s. 82.
- What fractional claim to contain** **83.** A Dominion land surveyor when surveying a fractional mineral claim may survey that claim so that it contains as nearly as possible all the unoccupied ground lying between the previously located mineral claims as described in the affidavit and sketch furnished by the locator when the claim was recorded, if the area of the claim as surveyed is less than sixty acres. R.S., c. 301, s. 83.
- Penalty** **84.** Where a Dominion land surveyor pursuant to section 82 and 83 includes in a claim more than fifty-one and sixty-five one-hundredths acres before the survey is approved by the Surveyor General, the recorded owner shall pay to the mining recorder as a penalty the sum of five dollars for each acre or fraction thereof included in the claim in excess of fifty-one and sixty-five one-hundredths acres. R.S., c. 301, s. 84.

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85. The surveyor shall, in the discretion of the Surveyor General, connect the survey of the claim with some known point in a previous survey, or with some other known point or boundary, so that the position of the claim may be definitely fixed on the plans of the Department. R.S., c. 301, s. 85. Definite fixing
of claim

86. It is the duty of the surveyor, before proceeding with the survey, to examine the application made for the claim and the plan that accompanied that application, and before completing the survey to ascertain by careful examination of the ground, or by all other reasonable means in his power, whether or not any other subsisting claim conflicts with the claim he is surveying, and he shall furnish with his returns of survey a certificate, duly signed by him, in the following form : Duty of surveyor
and certificate

I hereby certify that I have carefully examined the ground included in mineral claim surveyed by me, and have otherwise made all reasonable investigations in my power to ascertain if there was any other existing claim conflicting therewith, and I certify that I have found no trace or indication and have no knowledge or information of any such claim except as follows: (if none, so state; if any, give particulars.).

R.S., c. 301, s. 86.

87. If the survey of a claim is made and advertised in the manner specified herein before the recorded owner of the claim has sufficiently complied with the regulations to admit of his applying for a certificate of improvements, then the posting and publication of notice of the survey of the claim in the manner indicated shall be accepted as satisfaction of the posting and advertising requirements of section 64, but before a certificate of improvements is issued in connection with such a claim all the other requirements of section 64 shall be fully complied with. R.S., c. 301, s. 87. When posting
and publication
sufficient

TRANSFER OF A MINERAL CLAIM

88. (1) No transfer of an entry for any mineral claim or of any interest therein, is effectual unless the transfer is in writing, signed by the transferor, or by his agent authorized in writing, and recorded by the mining recorder; and, if signed by an agent, the authority of that agent shall be recorded before the record of such transfer. Conditions for
validity

(2) The assignment shall be in duplicate, signed by the assignor in the presence of a witness, who shall furnish proof of execution by affidavit, and when recorded the mining recorder shall return to the assignee one copy thereof with a certificate endorsed thereon that it has been recorded in his office, and retain the other copy. R.S., c. 301, s. 88. Conditions
required

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- Substitutional record** **89.** Where the record of entry (Form 3 of Schedule I) has been lost or destroyed, the mining recorder may, upon receipt of evidence to his satisfaction, supported by the affidavit of the recorded owner or owners, or one of them, if possible, that such is the case, and upon receipt of a fee of ten dollars, issue a "substitutional" record of entry which shall be so marked, and which shall be as far as practicable a copy of the record of entry (Form 3 of Schedule I) originally issued for such claim. R.S., c. 301, s. 89.
- Documents of title** **90.** Any conveyance, bill of sale, mortgage or other document of title relating to a mineral claim for which entry has been granted under this Act may be recorded with the mining recorder. R.S., c. 301, s. 90.
- Leases** **91.** (1) Leases of mineral claims, and renewals thereof, shall be executed in triplicate, one copy to be forwarded to the lessee, one copy to the mining recorder for the district, and one copy to be retained in the Department.
- Other documents** (2) All transfers, assignments and other documents in any way affecting the title to a mineral claim, or an interest therein, held under lease, shall be presented to the mining recorder for the district in the manner prescribed in section 88, but in triplicate, accompanied by the lessee's copy of the lease.
- Endorsement** (3) When any such transfer, assignment, or other document is duly registered, the mining recorder shall endorse on each of the copies thereof the prescribed certificate of registration, and shall return one of the copies of such document to the assignee, together with the lessee's copy of the lease, similarly endorsed; one copy shall be forwarded to the Department and the remaining copy shall be retained in the office of the mining recorder. R.S., c. 301, s. 91.
- Certificate of improvements** **92.** Where the holder of a mineral claim, after applying for a certificate of improvements, sells and transfers such claim, upon satisfactory proof of such sale and transfer being made to the mining recorder, the transferee of the claim is entitled to a certificate of improvements in his own name. R.S., c. 301, s. 92.
- When lease may issue to new holder** **93.** Where a transfer is made to any person or company after a certificate of improvements has been issued, but before a lease has been prepared, upon proper proof of such transfer being made to the satisfaction of the Minister, and upon receipt of a new certificate in Form 8 of Schedule I, the lease may issue to the new holder of the claim. R.S., c. 301, s. 93.

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94. The issue of the lease does not invalidate any lien that may have attached to any mineral claim prior to the issuance of the lease. R.S., c. 301, s. 94. Prior lien

ROYALTY

95. (1) There shall be paid to the Crown on every mine in the Yukon Territory, acquired under this Act or under the Quartz Mining Regulations that preceded this Act, an annual royalty on any profits of such mine that exceed the sum of \$10,000 during any calendar year, and the owner, manager, holder, tenant, lessee, occupier or operator of the mine is liable for and shall pay the Crown an annual royalty as follows: Annual royalty

- (a) upon annual profits in excess of \$10,000 and up to \$1,000,000 3 per cent;
- (b) on the excess above \$1,000,000 up to \$5,000,000 5 per cent;
- (c) on the excess above \$5,000,000 up to \$10,000,000 6 per cent;
- (d) on the excess above \$10,000,000 a proportional increase of one per cent for each additional \$5,000,000.

(2) For the purpose of this section, all mines and mineral workings in the Territory, occupied, worked or operated by the same person, or under the same general management or control, or the profits of which accrue to the same person, shall, for the purpose of determining whether there is liability for royalty hereunder, be deemed to be and be dealt with as one and the same mine, and not as separate mines. Mines under same management

(3) The royalty imposed by this section shall be deemed to accrue on the 1st day of January of the year in which it is payable, and shall become payable on the 1st day of October, following in each year, and shall be paid to the Commissioner or other officer named by the Minister. Accrual of royalty

(4) In order to ascertain and fix the annual profits, the gross receipts from the year's output of the mine, or in case the ore, mineral, or mineral-bearing substance, or any part thereof, is not sold, but is treated by or for the owner, tenant, holder, lessee, occupier or operator of the mine, upon the premises or elsewhere, then the actual market value of the output at the pit's mouth, or if there is no means of ascertaining the market value, or if there is no established market price or value, its value as appraised by a person to be named by the Minister, shall be ascertained, and from the amount so ascertained the following and no other expenses, payments, allowances or deductions shall be deducted and made, namely: Profits ascertained

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- (a) the actual cost of transportation of any output sold, if paid or borne by the owner, tenant, holder, lessee, occupier or operator;
- (b) the actual and proper working expenses of the mine both underground and above-ground, including salaries and wages of necessary superintendents, foremen, workmen, firemen, enginemen, labourers and employees of all sorts, employed at or about the mine, together with the actual and proper salaries and office expenses for necessary office work done at the mine and in immediate connection with the operation thereof;
- (c) the cost of supplying power and light, and of the hire of horses or other means of transportation used in the mining operation, or in handling the ore or mineral;
- (d) actual cost price of food and provisions for all employees aforesaid, whose salaries or wages are made less by reason of being furnished therewith, also the actual cost of fodder for horses used as above mentioned;
- (e) the actual cost of explosives, fuel, and any other supplies necessarily used in the mining operations;
- (f) any actual and proper outlay incurred in safeguarding and protecting the mine or mineral product;
- (g) the cost of proper insurance upon the output, if paid or borne by the owner, tenant, holder, lessee, occupier or operator, and upon the mining plant, machinery, equipment and buildings used for or in connection with mining operations, or for storing the ore or mineral;
- (h) an allowance of a sum for annual depreciation, by ordinary wear and tear, of the plant, machinery, equipment and buildings, such sum to be based upon the probable annual average cost of repairs and renewals necessary to maintain them in a condition of efficiency, and in no case to exceed for any year fifteen per cent of the value at the commencement of such year, such value to be appraised by an officer to be named by the Minister;
- (i) the cost of actual work done in sinking new shafts, making new openings, workings, or excavations of any kind, or of stripping, trenching, or diamond drilling in or upon the land upon which the mine is situated, or upon any other land belonging to the same owner, lessee, holder, tenant, occupier or operator in the Yukon Territory, or the cost of any work that, in the opinion of the Minister, has for its object the opening up of mines, or testing for ore or minerals; and

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- (j) all taxes payable or paid upon the profits of the mine of mining work, or upon the profits made in smelting, refining, or otherwise treating any of the products of the mine or mineral work.

(5) No allowance or deduction shall in any case be made for the cost of plant, machinery, equipment or buildings, nor for capital invested, nor for interest or dividend upon capital, or stock, or investment, nor for depreciation in the value of the mine, mining land, or mining property, by reason of exhaustion or partial exhaustion of the ore or mineral.

Capital not deducted

(6) For the purposes of this section, unless a contrary intention appears, the operations, business, matters and things carried on, occurring or existing during the preceding calendar year, shall be taken as fixing, assessing and ascertaining the royalty payable thereunder, but the royalty payable shall nevertheless be deemed to be a royalty for the calendar year in which it is payable.

Based on preceding year

(7) The owner, lessee, tenant, holder, occupier, manager or operator of every mine from which ore, minerals or mineral-bearing substances is or are being taken, shall, within ten days after the commencement of such active operations, notify the Commissioner of the fact that such mine is in active operation, and shall give in such notice the name of the mine and the name and address of the owner, lessee, tenant, holder, occupier, manager or operator of the mine, and the name and address of the manager or of some other person to whom notice may be sent, (to be known as the name and address for service) and shall forthwith notify the Commissioner of every change in the name and address of the manager or person, and of every change in the ownership, holding, tenancy, management, occupation, or operation of such mine, and of every discontinuance of active operations, and of every resumption thereof after discontinuance.

Give notice of active operations

(8) On or before the 1st day of April in each year, every person liable to pay the royalty imposed by this section shall, without any notice or demand to that effect, in addition to any other statements which may otherwise be required, deliver to the Commissioner a detailed statement, in which shall be set forth

Statement to be furnished

- (a) the name and description of the mine;
- (b) the name and address of the person or persons owning or operating the mine as lessee, agent, occupant or otherwise;
- (c) the quantity of ore, minerals and mineral-bearing substances shipped or sent from or treated on the mining premises during the year ending on the 31st of December last preceding;

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- (d) the name or names of the smelter or mill, and the locality to which the ore, minerals or mineral-bearing substances, or any part thereof, were sent;
- (e) the cost per ton for transportation to the smelter, refinery or mill, and the actual, proper and necessary expenses of making the sale, if any, and by whom paid or borne;
- (f) the cost per ton for smelter and mill charges, and by whom paid or borne;
- (g) the quantity of ore, minerals and mineral-bearing substances treated on the mining premises during the said year;
- (h) the value of the ore, minerals and mineral-bearing substances shipped, after deducting the charges for making sales and for transportation or for treatment; and
- (i) the value of the ore, minerals and mineral-bearing substances treated on the mining premises.

Statement to be attested on oath

(9) Such statement and information shall be made and furnished by and under the oath of the owner, manager, holder, lessee, tenant, occupier or operator of the mine, and shall also show in other columns the various expenses, payments, allowances and deductions that may properly be made under subsection (4), and such statement shall also show by way of summary the total receipts or market value at the mine of the year's output, and the total amount of the expenses, payments, allowances, and deductions to be deducted therefrom, and the balance of profits for the year as provided in this section.

Additional statement

(10) In addition to the statement referred to in subsection (8), the Minister may at any time of the year, require from any other person connected with the operation or management of the mine or mill, a statement, under affidavit, containing such information or particulars as the Minister may think proper to exact.

Extension of time

(11) The Minister may enlarge the time for making such return or statement.

Books to be kept

(12) Every person liable to pay the royalty imposed by this section, shall keep at or near the mine proper books of account of the ore, minerals or mineral-bearing substances taken from the mine, containing the quality, weight and other particulars of the same, and the value thereof, and showing the returns from the smelter, mill or refining works, or other returns of the amounts derived from the sale of such ores, minerals and mineral-bearing substances; and no ore, mineral or mineral-bearing substance taken out of any mine

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shall be removed therefrom or treated at any smelter, mill or refining works, until the weight thereof has been correctly ascertained and entered in the books of account; and that person shall also keep proper books showing each of the several expenses, payments, allowances, or deductions mentioned in subsection (4) and showing any other facts and circumstances necessary or proper for ascertaining the amount of the royalty payable hereunder.

(13) If any doubt arises as to where such book or books shall be kept, or as to how many, or what books shall be maintained, the Commissioner shall determine the number and character of the books to be kept, and the place or places at which they shall be kept.

Power of
Commissioner as
to books

(14) It is at all times lawful for the Commissioner, mining recorder, or mining recorder's agent to enter upon mining property for the purpose of making an inspection and obtaining information as to the amount and value of the output of the mine, and for this purpose such officer may descend all pits and shafts, and use all such tackle, machinery and appliances belonging to the mine as he may deemed necessary or expedient, and he shall have free ingress and egress to, from and over all buildings, erections and vessels used in connection with the mine, and he shall be allowed to take from the mining property such samples or specimens as he may desire, for the purpose of determining by assay or otherwise the value of the ore, minerals or mineral-bearing substances being taken therefrom, or any product thereof, and he shall have full and complete access to all books of account, correspondence and documents maintained or used for or in connection with the actual operation and business of such mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired by such officer shall not be disclosed to anyone, except so far as may be necessary for the purposes of this section.

Inspection of
mines

(15) If the royalty imposed by this section is not paid within the period herein prescribed, ten per cent shall forthwith be added thereto, and ten per cent shall be added at the expiration of each year thereafter that the royalty remains unpaid, and the increased amounts shall, for all purposes, be and become the royalty due and payable under this section.

Percentage
added for
default

(16) It is the duty of the Commissioner, or such other person as may be directed by the Minister, to keep a record of all arrears or royalty due, with the increased amounts from time to time entered thereon.

Record to be
kept

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Special lien and
priority

(17) All royalties, double royalties, percentages, penalties and costs, respectively, payable under this section, are a special lien on the mine, mining property, mineral claim, or mining rights, and upon all ore, mineral, or mineral-bearing substances taken therefrom, and upon all machinery upon or connected with the mine, in priority of every claim, privilege, lien, or encumbrances of any person, whether the right or title of such person has accrued before, or accrues after the attaching of such lien, and its priority is not lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration, and the same may be realized by action for sale of any or all property, leases and rights, subject to such lien.

Action to recover
royalty

(18) If the royalty imposed by this section is not paid when due, it may be recovered, together with the added percentages, from the owner, tenant, lessee, occupier or operator of the mine, by an action at the suit of the Minister in any court of competent jurisdiction, together with the costs of the action.

Injunction or
receiver

(19) In addition to any other remedies for the recovery of the royalty imposed by this section, an injunction or order in the nature of injunction, or the appointment of a receiver with all necessary powers, or such other relief or remedy as may seem necessary or expedient for securing payment of the royalty, may in any case where the royalty is overdue, or where the payment of the royalty seems endangered, be obtained in the Territorial Court at the instance and in the name of the Minister, to prevent the removal, transportation, or transmission of any ore, mineral or mineral-bearing substance, or to prevent or restrict mining operations, or to provide for such operations or production upon such terms and conditions as may seem proper.

Action by
Minister

(20) Any action that may be brought under this Act may be brought by the Minister as plaintiff, and it is not necessary to name the Minister, and the action does not abate by reason of a change in the name of such Minister, or by reason of the office being vacant at any time, but the action may proceed as though no change had been made or no vacancy existed.

Distress

(21) In case of default of payment of the royalty imposed by this section, the royalty together with all additions of percentages, double royalties, penalties and costs, may be levied and collected by distress, together with costs of distress, upon the goods and chattels, wherever found, of the person or any person liable therefor, under warrant signed by the Minister, or by the Commissioner, directed to the sheriff of the Territory, and in such case the sheriff shall realize the

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amount directed to be realized by the warrant, and all costs, by a sale of such goods, or so much thereof as may be necessary to satisfy the amount directed to be levied by such warrant.

(22) Any person who knowingly makes or signs any false statement, or furnishes any false or incorrect information to the Department or any of the officers thereof, or gives any false or incorrect information to any officer or person in respect of any other matter or thing required under this section, or keeps or causes to be kept any false or incorrect book or accounts regarding anything required under this section, with intent to deceive, shall, in addition to any other liability, incur a penalty of two hundred dollars for every such offence, which penalty may be recovered by summary conviction before a justice of the peace having jurisdiction within the district in which such false statement or false information is made or furnished, or before any justice of the peace having jurisdiction within the district in which such false book or account is kept. Penalty

(23) Every person who is required under this section to make or furnish any statement or information and every mine in respect of which such statement or information is required to be made or furnished, shall, in case of neglect to conform with this section, incur a penalty of twenty dollars per day for each day during which default is made, which penalty or sum shall be added to and become part of the royalty imposed by this section, and such person and such mine are also liable to pay a royalty of double the amount for which it would have been liable, and any such penalty or double royalty may be recovered from any person liable therefor, under an action brought in the name of the Minister, to be tried by a judge of the Territory. Penalty for not
furnishing
information

(24) Such regulations as may from time to time appear to be necessary, shall be established under the authority of the Governor in Council for the carrying out of the provisions and purposes of this section, and to deal with cases that may arise, and for which provision is not made in this section. Regulations
R.S., c. 301, s. 95.

TERM OF LEASE AND RENTAL

96. Leases of mineral claims and of iron and mica claims shall be for a term of twenty-one years, renewable for a further term of twenty-one years, if the lessee furnishes evidence to the satisfaction of the Minister that during the term of the lease he has complied in every respect with the conditions of the lease and with the provisions of the law and regulations, and renewable for additional periods of twenty- Twenty-one year
leases and
renewals

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one year on such terms and conditions as may be prescribed by the Governor in Council. R.S., c. 301, s. 96.

Fees and rentals **97.** The fees and rentals to be charged and paid under this Act are as set out in Schedule II. R.S., c. 301, s. 97.

Lapse of right **98.** In case payment of the rental and fee for the first term of twenty-one years is not made within the period of three months from the date of the certificate of improvements, or in case payment is not made of the rental for the renewal term within three months from the date upon which it becomes due, then all right to the claim or to a lease thereof, or to a renewal of such lease, absolutely lapses without any declaration of cancellation or forfeiture on the part of the Crown, and such claim and rights shall immediately be and become revested in the Crown. R.S., c. 301, s. 98.

Form of lease **99.** The lease shall be in such form as may be determined by the Minister, in accordance with this Act. R.S., c. 301, s. 99.

ARBITRATION

Permission necessary for entry **100.** Where the surface rights of a mineral claim are covered by a timber licence, or by a petroleum, grazing or coal mining lease, or any other form of a terminable grant, the lease shall not authorize entry thereon, without the permission of the Minister being first obtained, and that permission shall be given subject to such conditions for the protection of the rights of the lessee or licensee as it may be considered necessary to impose. R.S., c. 301, s. 100.

Permission to submit case to arbitration **101.** (1) Where the surface rights of a mineral claim have been patented, or have been disposed of by the Crown under any Act or regulation that contemplates the earning of patent for such surface rights, and the holder or lessee of the mineral claim cannot make an arrangement with the owner of such surface rights, or with his agent, or the occupant thereof, for entry upon the location, or for the acquisition of such interest in the surface rights as may be necessary for the efficient and economical operation of the rights acquired under his record or lease, he may, if the mineral rights in the land affected with access thereto and the right to use and occupy such portion of the land as may be necessary for the effectual working of the minerals therein have been reserved to the Crown in the original grant of the surface rights, apply to the Minister for permission to submit the matter in dispute to arbitration.

Notice to appoint arbitrator (2) Upon receiving such permission in writing it is lawful for the holder or lessee to give notice to such owner, or his

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agent, or the occupant, to appoint an arbitrator, within a period of sixty days from the date of such notice, to act with another arbitrator named by the holder or lessee, in order to determine

- (a) what portion of the surface rights the holder or lessee may reasonably acquire for the efficient and economical operation of the rights and privileges granted him under his record or lease;
- (b) the exact position thereof; and
- (c) the amount of compensation to which the owner or occupant of the surface rights shall be entitled. R.S., c. 301, s. 101.

102. (1) The notice mentioned in this section shall be according to a form prescribed by the Commissioner to be obtained upon application to the mining recorder for the district in which the land in question is situated, and shall, when practicable, be personally served on the owner of such land, or his agent, if known, or the occupant thereof, and after reasonable efforts have been made to effect personal service without success, then the notice shall be served by leaving it at or sending it by registered mail to the latest known place of abode or address of the owner, his agent or occupant, and by posting a copy of the notice in the office of the mining recorder for the district in which the land in question is situated.

Form of notice

(2) The notice shall be ten days if the owner or his agent resides in the district in which the land is situated, if out of the district and in the territory, twenty days, and if out of the territory, thirty days, before the expiration of the time limited in such notice.

Notice ten, twenty or thirty days

(3) Where the owner, or his agent, or the occupant of the land refuses or declines to appoint an arbitrator, or where, for any reason, no arbitrator is so appointed in the time limited therefor in the notice provided for by this section, the mining recorder for the district in which the land in question is situated shall forthwith, on being satisfied by affidavit that the notice has come to the knowledge of such owner, agent or occupant, or that such owner, agent or occupant, wilfully evades the service of such notice, or cannot be found, and that reasonable efforts have been made to effect such service, and that the notice was left at the latest place of abode or known address of such owner, agent or occupant as above provided, appoint an arbitrator on his behalf. R.S., c. 301, s. 102.

When recorder appoints arbitrator

103. In case two arbitrators cannot agree upon the award to be made, they may, within a period of ten days

Appointment of third arbitrator

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from the date of the appointment of the second arbitrator select a third arbitrator, and when two such arbitrators cannot agree upon a third arbitrator, the mining recorder for the district in which the land in question is situated shall forthwith select such third arbitrator. R.S., c. 301, s. 103.

Arbitrators to be sworn

104. All the arbitrators appointed under the authority of this Act shall be sworn before a justice of the peace, or a commissioner for taking affidavits, to the impartial discharge of the duties assigned to them, and after due consideration of the rights of the owner and the needs of the lessee, or holder of the mineral claim, they shall decide as to the particular portion of the surface rights which the latter may reasonably acquire for the efficient and economical operation of the rights and privileges granted him under his lease, or entry, the area thereof, and the amount of compensation therefor to which the owner or occupant shall be entitled. R.S., c. 301, s. 104.

How valuation made

105. (1) In making such valuation the arbitrators shall determine the value of the land irrespective of any enhancement thereof from the existence of minerals thereunder R.S., c. 301, s. 105.

Award of arbitrators final

106. (1) The award of any two such arbitrators made in writing is final, and shall be filed with the mining recorder for the district in which the land is situated within twenty days from the date of the appointment of the last arbitrator.

Carrying into effect

(2) Upon the order of the Minister the award of the arbitrators shall immediately be carried into effect. R.S., c. 301, s. 106.

Arbitrators' fees

107. The arbitrators are entitled to be paid a per diem allowance of five dollars together with their necessary travelling and living expenses while engaged in the arbitration, and the costs of such arbitration shall be in the discretion of the arbitrators. R.S., c. 301, s. 107.

ADMINISTRATION OF THE ESTATES OF DECEASED OR INSANE MINERS

When owner dies or becomes insane

108. Where the owner of a claim for which a lease has not yet been issued, or the owner of an interest in such a claim, dies, or is adjudged to be insane, the provisions of this Act as to forfeiture for non-performance of work, or non-payment of assessment do not apply except as hereinafter provided, in the first case, either during his last illness or after his decease, and in the second case, either after he has been adjudged so insane, or, if it appears that the neglect or omission on account or by reason of which such claim would otherwise have been deemed to be forfeited was attributable

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to his insanity, then during such period prior to his having been adjudged insane as he may have been shown to have been insane. R.S., c. 301, s. 108.

109. The Commissioner may limit the period during which all or any interest in any mineral claim, the property of such deceased or insane person, shall be exempt from the provisions of this Act that require annual performance of work and payment of fees, and may fix the date upon which the same shall again become subject to all the provisions of this Act. R.S., c. 301, s. 109.

Period of
exemption
limited

110. (1) At the termination of the period fixed, the claim becomes subject to all the provisions of this Act, and if such provisions are not complied with the title thereto shall be absolutely forfeited where the estate of such deceased person is the sole owner of the claim, and the claim is forthwith open for relocation without any declaration of cancellation or forfeiture on the part of the Crown.

At termination
of period

(2) Where, however, such an estate is a co-owner the interest of the estate is, upon the termination of such period of exemption, *ipso facto* vested in the other co-owners who have complied with this Act, in proportion to their respective interests. R.S., c. 301, s. 110

Estate a co-
owner

111. The Commissioner may by order, from time to time, extend the period of such exemption as the necessity of the case may in his opinion demand, but in the case of deceased persons the period during which the exemption applies shall not extend beyond three years from the date of the death of the deceased. R.S., c. 301, s. 111.

Extension of
period

112. Where there is no other legal representative of the estate of any such deceased or insane person, the Commissioner may cause the public administrator or such responsible officer as he may name, to take possession of the property and administer it subject to the provisions of any ordinance in force respecting the administration of the estates of deceased or insane persons in the Territory. R.S., c. 301, s. 112.

Public adminis-
trator to take
possession

113. No exemption of the interest of a deceased or insane owner in any claim applies to or exempts any co-owner's interest from the provisions of this Act with respect to the annual performance of work and payment of fees, and the rights of such co-owners shall be continued, if they do or cause to be done the prescribed representation work and pay the prescribed fees necessary in connection with those interests not exempted from performance of work and payment of fees. R.S., c. 301, s. 113.

Co-owner not
exempt

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When interest of
co-owner vested
in estate

114. Where the estate of the deceased or insane person owns an interest in a claim, and the co-owners who are required to perform work and pay fees have, during the period of such exemption, failed to perform the work required to be done thereon, the interest of such co-owners may, upon that failure being proved to the satisfaction of the mining recorder, after notice of hearing has been served upon all interested persons in the manner prescribed by him, be vested by order of the mining recorder in such estate. R.S., c. 301, s. 114.

Recording of
assignment

115. (1) Any person receiving from the public administrator or other legal representative of the estate of a deceased or insane person an assignment of a claim that has been exempted from the provisions of this Act with respect to performance of work and payment of fees, because of the death or insanity of the owner thereof, shall record such assignment within two months from the date thereof, and after the assignment has been recorded the claim again becomes subject to all the provisions of this Act.

Forfeiture of
claim

(2) Where the assignment is not so recorded the provisions exempting such claim cease to apply and the claim, at the expiration of the said two months, becomes absolutely forfeited and shall be open to relocation and entry. R.S., c. 301, s. 115.

When co-owners
required to
perform work
and pay fees

116. (1) Any person receiving from the public administrator, or other legal representative of the estate of a deceased or insane person, an assignment of an interest in a claim that has been exempted from the provisions of this Act with respect to performance of work and payment of fees, because of the death or insanity of the owner thereof, and on which the other co-owner or co-owners are required to perform work and pay fees, shall within two months from the date of such assignment, record the assignment and comply with the provisions of this Act with respect to representation from the day of the recording of such transfer.

When interest
vested in other
co-owners

(2) If the assignment is not so recorded, and if the Act is not otherwise complied with, the interest in question is thereupon *ipso facto* vested in the other co-owner or co-owners in proportion to their respective interests.

Failure of
co-owners to pay
fees, etc.

(3) If the co-owners who are required to perform work and pay fees have failed to do so, the interest of such co-owner or co-owners may, upon such failure being proved to the satisfaction of the mining recorder after notice of hearing has been served upon all persons interested, become vested in the co-owner who has acquired the interest of the estate in such

Appendix

claim, and who may have complied with this Act. R.S., c. 301, s. 116.

MILL-SITES

117. The Minister may, in his discretion, grant a lease of a tract of available, unoccupied and unreserved crown land, not known to contain mineral of commercial value and not exceeding five acres in area, as a mill-site; but lands valuable for water-power purposes shall not be open to lease for this purpose except by authority of the Governor in Council. R.S., c. 301, s. 117.

Lease for millsite

118. (1) The mill-site shall be marked on the ground and surveyed in the same manner as a mineral claim, and shall be as nearly as possible in the form of a square, the boundaries being due north and south and due east and west lines.

Marking, surveying and form

(2) The term of the lease shall be for such period as the Minister may decide, and the rental shall be at the rate of one dollar an acre per annum, payable yearly in advance from the date of application. R.S., c. 301, s. 118.

Term of lease

119. In case the mill-site is not utilized as such to the satisfaction of the Minister, within three years from the date of the lease, the lease shall be subject to cancellation in the discretion of the Minister. R.S., c. 301, s. 119.

Non-user

TUNNELS AND DRAINS

120. Any holder of a mineral claim by entry or by lease may, in the discretion of the mining recorder, obtain permission to run a drain or tunnel for drainage or any other purpose connected with the development or working of such claim or mine through any occupied or unoccupied lands, whether mineral or otherwise, upon security being first deposited or given to such mining recorder to his satisfaction for any damage that may be done thereby, and upon such other terms as he thinks expedient. R.S., c. 301, s. 120.

For working of claim

WATER RIGHTS

121. The holder of a mineral claim or of any mill-site may obtain a grant to a water right of any unappropriated water for any mining or milling purposes under the *Yukon Placer Mining Act*, or under the provisions of the regulations for the disposal of water for power purposes, according to the purpose for which the water is to be used. R.S., c. 301, s. 121.

For mining or milling purposes

Appendix

MISCELLANEOUS

Injury to claim

122. Any person who causes damage or injury to the holder of any claim other than his own by throwing earth, clay, stones or other material upon such other claim, or by causing or allowing water that may be pumped or bailed, or that may flow from his own claim to flow into or upon such other claim is liable to a penalty of not more than fifty dollars and costs, and in default of the payment of the fine and costs he may be imprisoned for any period of not more than one month; this section does not deprive any person of rights to damages. R.S., c. 301, s. 122.

Certain rights saved

123. Nothing herein contained shall, except where such intention is expressly stated, be so construed as to affect prejudicially any mining rights and interests acquired prior to the 19th day of July 1924, and all mining rights and privileges acquired before that day and hereunder acquired shall, without the same being expressly stated, be deemed to be taken and held subject to the rights of Her Majesty, her heirs and successors, and to the public rights-of-way and water. R.S. c. 301, s. 123.

Affidavits and declarations

124. Affidavits and declarations made under this Act may be made before any persons duly authorized to administer an oath or declaration. R.S., c. 301, s. 124.

Entry and examination

125. The Minister, Commissioner, mining recorder or any one deputed by any of them, has the right to enter into or upon and examine any mineral claim or mine. R.S., c. 301, s. 125.

Rights of authorities saved

126. Nothing herein contained shall be construed to limit the right of the proper authorities to lay out, from time to time, public roads across, through, along or under any ditch, mill-site, water right or mineral claim. R.S., c. 301, s. 126.

Appendix

SCHEDULE I

FORM 1

APPLICATION FOR A FULL CLAIM (Sec. 41)

Mining District

I,, of, in theMining District, make oath and say:

1. On the day of 19....., I located the mineral claim situated (*here describe the position of the claim as nearly as possible, giving the name or names of any mineral claim or claims it may join*).

2. I have placed location posts No. 1 and No. 2 of the legal dimensions on the said claim with the inscription on each post prescribed by the *Yukon Quartz Mining Act*.

3. I have inscribed on location post No. 1 the following words:

4. I have inscribed on location post No. 2 the following words:
(*If a witness post has been used the particulars as to such post should be fully set out*).

5. I have marked the line between post No. 1 and post No. 2 as required by section 28.

6. To the best of my knowledge and belief the ground comprised within the boundaries of the said claim is unoccupied and unrecorded by any other person as a mineral claim; it is not occupied by any building or any land falling within the curtilage of any dwelling house, or any land under cultivation, or any land reserved from entry under the *Yukon Quartz Mining Act*.

7. The said claim has not heretofore been staked out by any one in my interest.

8. I attach hereto a plan of the location as required by section 31 of the *Yukon Quartz Mining Act*.

Sworn and subscribed to at this day of 19.....

.....

FORM 2

APPLICATION FOR FRACTIONAL CLAIM (Sec. 41)

Mining District

I,, of in the Mining District, make oath and say:

Appendix

1. On the day of 19....., I located the fractional mineral claim.....situated.....

2. This is a fractional claim bounded on the north by on the south by on the east by and on the west by and is more particularly described on the sketch plan on the back of (or attached to as the case may be) this declaration.

3. I have placed posts of the legal dimensions (here enumerate each of the posts placed on the ground in locating the claim) with the prescribed inscription on each post.

4. I have inscribed on location post No. 1 the following words:

5. I have inscribed on location post No. 2 the following words:

6. The length of the location line is approximately feet.

7. I have marked the line between post No. 1 and post No. 2 in the manner prescribed by section 28 of the *Yukon Quartz Mining Act*.

8. To the best of my knowledge and belief the ground comprised within the boundaries of the said fractional claim is unoccupied and unrecorded by any person as a mineral claim; it is not occupied by any building or any land falling within the curtilage of any dwelling house, or any land under cultivation, or any Indian reserve, or other reservation made in the mining regulations.

9. The said claim has not heretofore been staked out by any one in my interest.

Sworn and subscribed to at thisday of 19.....

FORM 3

RECORD OF A MINERAL CLAIM (Secs. 38, 40, 89)

Mineral Claim

Located by of from whom I have this day received the sum of \$10, being the fee prescribed by the *Yukon Quartz Mining Act* for recording a mineral claim.

The claim is situated

The direction of the line from post No. 1 to post No. 2 is

The distance in feet is

(If a witness post has been used the particulars as to such post to be fully set out.)

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The claim was located on the day of
19.....

Recorded this day of 19.....

Mining Recorder

FORM 4

APPLICATION FOR A CERTIFICATE OF WORK (Sec. 53)

Affidavit

I,, of, in the District of
make oath and say:

That I have done or caused to be done work on the
mineral claim, situated at in the Min-
ing District, to the value of at least \$100, since the
day of 19.....

The following is a detailed statement of such work

*(Set out full particulars of the work done in the twelve months
in which such work is required to be done, as shown in
section 53.)*

Sworn and subscribed to at this
day of 19.....

FORM 5

CERTIFICATE OF WORK (Sec. 53)

..... (*Name of Claim*) Mineral Claim....
.....

This is to certify that an affidavit setting out a detailed state-
ment of the work done on the above claim since the
day of 19....., made by
has this day been filed in my office, and in pursuance of the
Yukon Quartz Mining Act I do now issue this certificate of work
in respect of the above claim to

This certificate entitles to continue in possession
of the said claim for one year from

Mining Recorder

Appendix

FORM 6

**CERTIFICATE TO GROUP CLAIM FOR THE PERFORMANCE OF
WORK (Sec. 52)**

Certificate that annual expenditure may, after recording claims, be made on any one of not more than eight claims grouped together for the performance of work.

Mining District

This is to certify that in accordance with section 52 of the *Yukon Quartz Mining Act*, the registered owner(s) or agent(s) of such owner(s) of the following mineral claims have filed a notice of his (their) intention to group such claims together for the performance of work:

Dated at, this day of,
19.....

Mining Recorder

FORM 7

CERTIFICATE OF IMPROVEMENTS (Sec. 64)

Mineral Claim

This is to certify that, of in the....
..... Mining District, has proved to my satisfaction that he has complied with all the provisions of the *Yukon Quartz Mining Act*, to entitle him to a certificate of improvements in respect of the mineral claim situated at in the Mining District, and in pursuance of the said Act I do now issue this certificate of improvements in respect of the above claim to

Dated

Mining Recorder

This certificate will become void unless the prescribed rental is paid within three months from its date.

(Form may be altered to suit circumstances.)

Appendix

FORM 8

MINING RECORDER'S CERTIFICATE (Sec. 64(2), 93)

..... Mining District
..... Mineral Claim

Date located Date recorded

I hereby certify that has published a notice of his intention to apply for a certificate of improvements (or that he has published a survey notice, Form 9) for sixty days in the newspaper from the day of 19....., a copy of which notice is attached; that during the above period a notice in accordance with the *Yukon Quartz Mining Act* has been posted and a copy of the plan of the said claim deposited for reference in my office; and that no notice of any action having been commenced against the issuance of a certificate of improvements, or against the acceptance of the survey as defining absolutely the boundaries of the claim, has been filed in this office.

The recorded owner of the claim at this date is

Dated 19.....

Mining Recorder

FORM 9

SURVEY NOTICE (Sec. 80)

..... Mineral Claim

Situated in the Mining District.

Where located

Take notice that a survey has been made of the above mineral claim under instructions from the Surveyor General, and that at the termination of sixty days from the date of this notice the said survey shall be accepted as defining absolutely the boundaries of the said claim, unless in the meantime it is protested, as provided in section 69 of the *Yukon Quartz Mining Act*.

Dated this day of 19.....

R.S., c. 301, Sch. One.

Appendix

SCHEDULE II

FEEES

1. Recording mineral claim	\$10.00
2. For a substitutional record	10.00
3. Application for a lease and issue of same	10.00
4. For Certificate of Work	
For one year	5.00
For two years	10.00
For three years	15.00
For four years	20.00
For five years	25.00
5. For a certificate of improvements	5.00
6. For a grouping certificate	5.00
7. Recording assignments, abandonments, affidavits, or any other document	\$ 2.50
If document affects more than one claim, for each additional claim	1.00
8. For an abstract of the record of a claim	
For the first entry	1.00
For each additional entry	0.10
9. For copies of any documents recorded	
Up to three folios	3.00
For each additional folio	0.50
10. For recording a power of attorney to stake from one person	4.00
11. For recording a power of attorney to stake from two persons	8.00
12. For recording an assignment of a quartz mining lease	3.00
13. Rental for whole or fractional mineral claim granted under lease for term of twenty-one years:	
If acreage is 51.65 acres or less	50.00
Add for each acre or fraction thereof over 51.65 acres	5.00
14. Rental for renewal term of twenty-one years	
If acreage is 51.65 acres or less	200.00
Add for each acre or fraction thereof over 51.65 acres	20.00
15. Rental iron and mica claim as defined by section 17	150.00
16. Rental for renewal term of 21 years iron and mica claim	600.00

R.S., c. 301, Sch. Two.

