



ORDINANCES
OF THE
YUKON TERRITORY

PASSED BY THE
YUKON COUNCIL

IN THE YEAR
1974
SECOND SESSION

J. SMITH
COMMISSIONER

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ORDINANCES OF THE YUKON TERRITORY

1974

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CHAPTER 1
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

ELECTORAL DISTRICT BOUNDARIES COMMISSION ORDINANCE

(Assented to April 18, 1974)

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

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| 1. | This Ordinance may be cited as the <i>Electoral District Boundaries Commission Ordinance</i> . | Citation |
| 2.(1) | In this Ordinance:
"Chairman" means the Chairman of the Electoral District Boundaries Commission appointed pursuant to Section 4;
"Commission" means the Electoral District Boundaries Commission established pursuant to Section 3;
"electoral district" means any place or area entitled to representation on the Council of the Yukon Territory;
"Judge" means the Judge of the Court;
"Speaker" means the Speaker of the Council and includes any person designated by the Council to perform the duties of the Speaker. | Definitions |
| 3.(1) | The Commissioner shall by proclamation establish an Electoral District Boundaries Commission for the Territory. | Establishment of Commission |
| 4.(1) | The Commission shall consist of a Chairman and two members. | Membership |
| (2) | The Chairman of the Commission shall be the Judge; one member shall be appointed by the Commissioner on the recommendation of the Council and the other member shall be appointed by the Commissioner on the joint recommendation of the Chairman and the other member. | |
| 5.(1) | No person is eligible to be a member of the Commission while he is a member of the Senate, the House of Commons, the Council, the council of a municipality or the Board of Trustees of a Local Improvement District. | Ineligibility |
| 6.(1) | The Commission shall appoint one of its members to act as Chairman in the event of the absence or incapacity of the Chairman or if the office of Chairman is vacant. | Acting Chairman |

- Quorum** (2) At all meetings of the Commission, two members of the Commission constitute a quorum.
- Vacancy** (3) A vacancy in the membership of the Commission or in the office of Chairman does not impair the right of the remaining members to act, but where any such vacancy occurs it shall be filled within seven days by appointment in accordance with Section 4.
- Replacement of Chairman** (4) Notwithstanding subsection (3), where the Chairman is unable to act he may appoint another judge to act in his stead and such other judge shall have all the powers and duties of the Chairman other than the power of appointment mentioned in this subsection.
- First Meeting** 7.(1) The Commission shall meet as soon as may be after it has been established.
- Calling of Meetings** 8.(1) The Commission may be called together at any time by the Chairman for the purpose of carrying out its functions.
- (2) The Commission may meet at any time on its own motion to perform any of its functions or duties.
- Remuneration** 9.(1) The members of the Commission, other than the Chairman, shall be paid such remuneration as the Commissioner may prescribe.
- Expenses of Members** (2) The members of the Commission shall be paid such transportation, accommodation and living expenses in connection with their duties while away from their ordinary place of residence as the Commissioner may prescribe.
- Preparation of Report** 10.(1) Upon its establishment, the Commission shall proceed to prepare a report setting forth its recommendations concerning the division of the Territory into electoral districts, its recommendations concerning the representation of such districts, its recommendations concerning the description of the boundaries and the name of each such district.
- Notice of hearings** 11.(1) As soon as practicable, the Commission shall give public notice throughout the Territory of its intention to hold hearings and receive representations in respect of the division of the Territory into electoral districts.
- Map of proposed Electoral Districts** (2) The Commission shall publish by advertisement in one or more newspapers circulating in the Territory, a map or drawing prepared by the Commission showing the proposed division of the Territory into electoral districts and indicating the name to be given to each electoral district, the representation to be given to each such district, together with a schedule setting forth the proposed boundaries of each electoral district and requesting representations from interested persons.

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| 12.(1) | The Commission may, in the performance of its duties, sit at such times and places in the Territory as it deems necessary for the hearing of representations. | Meetings as required |
| 13.(1) | In recommending the representation to be given to electoral districts, the Commission shall allot not less than one half of the members of the Council to the electoral districts in that portion of the Territory lying outside the City of Whitehorse. | Restriction on Allotment |
| 14.(1) | The Commission may include in an electoral district in the City of Whitehorse, any area outside the City of Whitehorse which is contiguous to the boundaries of that part of the electoral district within the City of Whitehorse where it appears to the Commission necessary or desirable to do so. | Areas contiguous to Whitehorse |
| 15.(1) | In recommending the boundaries of any electoral district, the Commission shall take into consideration: <ul style="list-style-type: none"> (a) geographic considerations, including in particular the sparsity, density or relative rate of growth of population of any region of the Territory, the accessibility of any such region and the size or shape thereof; (b) any special community or diversity of interests of the inhabitants of various regions of the Territory; (c) the means of communication between various parts of the Territory, and all other similar and relevant factors. | Items to consider |
| 16.(1) | The Commissioner shall, upon the recommendation of the Commission, appoint a person to act as Secretary of the Commission. | Secretary |
| (2) | Upon being requested by the Chairman so to do, the Commissioner may, from time to time, appoint one or more persons having special knowledge to assist the Commission in carrying out its functions. | Experts |
| (3) | A person appointed pursuant to this section shall be paid such remuneration as the Commissioner may prescribe. | |
| 17.(1) | The Commission shall record its proceedings and the Chairman shall be responsible for the custody and care of all records and documents belonging or pertaining to the Commission. | Proceedings to be recorded |
| 18.(1) | The Commission 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 Commission. | Investigations for Commission |
| (2) | A person authorized pursuant to this section has all the powers of the Commission for the purpose of taking evidence or acquiring the necessary information for his report. | |

- Rules** 19.(1) The Commission may make rules for regulating its proceedings and for the conduct of its business.
- Powers of Commission** 20.(1) In performing its duties, the Commission has all the powers of a Board of Inquiry appointed under the Public Inquiries Ordinance.
- Report within four months** 21.(1) The Commission shall complete its report within four months of the coming into force of this Ordinance.
- Report filed with Speaker** (2) The Commission shall forthwith after completion of its report:
(a) file its report with the Speaker; and
(b) transmit its records and documents to the Speaker after delivering its report to him.
- Report available to public** (3) Copies of the report filed with the Speaker shall be made available to the public at the offices of the Territorial Secretary and the Territorial Agents for inspection during office hours.
- Copies for Council Members** (4) The Clerk of the Council shall transmit copies of the report to each member of the Council.
- Report laid before Council** (5) The Speaker shall, after receiving the report of the Commission, forthwith lay the report before the Council if the Council is then in session, or if the Council is not in session then within five days after the opening of the next session.
- Council to be summoned** 22.(1) Forthwith after receiving the report of the Commission, the Speaker shall notify the Commissioner and the Commissioner shall forthwith summon the Council into session.
- Bill to be prepared** (2) If the Council by resolution approves or approves with alterations, the proposals of the Commission, the Commissioner shall prepare a Bill to carry out the provisions of the resolution and the Bill shall be introduced to Council at the same session at which the resolution is made.

CHAPTER 2
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

LOTTERIES ORDINANCE

(Assented to May 13, 1974)

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

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| 1. | This Ordinance may be cited as the <i>Lotteries Ordinance</i> . | Short Title |
| 2. | The Commissioner may, on behalf of the Territory, enter into agreements with the government of any province or any corporation established by the government of any province for the purpose of undertaking, organizing, conducting and managing lottery schemes. | Commissioner may make agreements |
| 3. | The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Territory under any agreement made pursuant to Section 2. | Commissioner may implement agreement |
| 4. | The Commissioner may make regulations for the issuing of licenses respecting
(a) the sale of lottery tickets;
(b) the sharing of the proceeds; and
(c) such other regulations as may be necessary to carry out the purposes and provisions of this Ordinance. | Regulations |
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CHAPTER 3
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

TOBACCO TAX ORDINANCE

(Assented to May 13, 1974)

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

- Short Title 1.(1) This Ordinance may be cited as the *Tobacco Tax Ordinance*.
- Interpre-2.(1) In this Ordinance
tation
- "consumer" means a person who purchases or acquires tobacco for his own use or consumption or for the use or consumption by others at his expense;
- "dealer" means a person who, in the Territory, sells or offers to sell tobacco or keeps tobacco for sale, either at wholesale or at retail;
- "package" includes a box, tin, or other container in which tobacco is sold at retail;
- "retail dealer" means a person who sells or offers for sale, in the Territory, tobacco to a consumer;
- "retail sale" means a sale of tobacco to a consumer;
- "tobacco" means tobacco and tobacco products in any form in which they may be consumed, by the consumer, and includes snuff;
- "Treasurer" means the Territorial Treasurer;
- "wholesale dealer" means a person who sells or offers for sale, in the Territory, tobacco for the purpose of resale.
- Tax on 3.(1) Every consumer of tobacco in the Territory shall pay to the
Consumer Treasurer a tax in respect of that tobacco as provided in this Ordinance.
- Collec- 4.(1) Every dealer shall collect and remit pursuant to this
tion and Ordinance tax at the rate of
Remission
- (a) two-fifths of one cent on every cigarette purchased by him;
- (b) one cent on every cigar purchased by him for a price at retail of not more than five cents;
- (c) two cents on every cigar purchased by him for a price at retail of more than five cents and not more than twelve cents;
- (d) three cents on every cigar purchased by him for a price at retail of more than twelve cents and not more than twenty cents;

- (e) five cents on every cigar purchased by him for a price at retail of more than twenty cents and not more than thirty cents;
 - (f) seven cents on every cigar purchased by him for a price at retail of more than thirty cents and not more than forty cents;
 - (g) nine cents on every cigar purchased by him for a price at retail of more than forty cents;
 - (h) two cents on every half of one ounce or part of half of one ounce of any tobacco purchased by him other than cigarettes or cigars.
- (2) The tax payable on tobacco, other than cigars, shall be computed separately on every package.
- (3) The tax payable on cigars shall be computed separately on the price at retail of each cigar whether or not it is sold in a package.
- (4) The tax payable under subsection (1) shall be computed to the nearest cent, and, for this purpose, one-half cent shall be counted as one cent, and the minimum tax payable shall be one cent.
- (5) (a) Every dealer shall be deemed to be an agent for the Commissioner.
- (b) A person acting as agent under paragraph (a) is not thereby made ineligible to be nominated, elected, or to sit as a member of the Council.
- (6) Every person resident or carrying on business in the Territory who brings or sends into the Territory or who acquires or receives delivery in the Territory of tobacco
- (a) for his own consumption or use, or for the consumption or use by other persons at his expense, or
 - (b) on behalf of, or as the agent for a principal who desires to acquire the tobacco for the consumption or use by the principal or other persons at the expense of the principal,
- shall immediately report the matter in writing to the Treasurer together with all pertinent information required by the Treasurer in respect of the consumption or use of such tobacco, and furthermore, at the same time, shall pay to the Treasurer the same amount of tax as would have been payable if the tobacco had been purchased in the Territory.
- (7) Notwithstanding subsection (6), every person resident in the Territory or carrying on business in the Territory, may have in his possession at any one time, for his own consumption an amount of tobacco not exceeding
- 200 cigarettes,
 - 50 cigars, and
 - 2 pounds of tobacco
- which he has personally acquired or received from outside the Territory and on which he has not reported to the Treasurer and on which he has not paid the tax otherwise required to be paid in accordance with this Ordinance.
- 5.(1) No dealer shall advertise or hold out or state to the public or to a consumer, directly or indirectly, that the tax or any part thereof imposed by this Ordinance will be assumed

Absorp-
tion of tax
prohibited

or absorbed by him, or that it will not be considered as an element in the price to the consumer, or if added, that it or any part thereof will be refunded.

- Permits 6.(1) No person shall sell or offer for sale tobacco in the Territory unless he has been granted, upon his application in the prescribed form, a permit, and such permit is in force at the time of sale.
- (2) No person shall sell or offer for sale, in the Territory, tobacco to a consumer unless he holds a retail dealer's permit.
- (3) No person shall sell or offer for sale tobacco for resale in the Territory to any person who does not hold a wholesale dealer's permit.
- (4) The permit granted under subsection (1) shall be kept at the principal place of business of the dealer in the Territory and shall not be transferable, and shall upon request, be presented for inspection by the Treasurer, or by a person designated by him.
- (5) Subject to the approval of the Commissioner, the Treasurer may
- (a) cancel or suspend a permit where a person commits an offence against this Ordinance, or has failed to post the security required under section 14 of this Ordinance, and
- (b) refuse to issue a permit to a person who has committed an offence against this Ordinance, or has failed to post the security required under this Ordinance.
- Sales in bulk prohibited unless certificate of payment of taxes obtained 7.(1) No dealer shall dispose of his stock of tobacco through a sale in bulk, as defined in the Bulk Sales Ordinance without first obtaining a certificate in duplicate from the Treasurer that the tax collectable or payable under this Ordinance has been paid by the dealer.
- (2) Every person purchasing a stock of tobacco through a sale in bulk as defined in the Bulk Sales Ordinance, shall obtain from the dealer selling the stock of tobacco a duplicate copy of the certificate furnished under subsection (1), and, if he fails to do so, he is responsible for payment to the Treasurer of the tax collectable or payable under this Ordinance by the dealer thus disposing of his stock of tobacco through a sale in bulk.
- Secrecy of information 8.(1) Subject to subsection (2), no person employed in the administration of this Ordinance shall communicate or allow to be communicated to a person not legally entitled thereto information obtained under this Ordinance, or allow such person to inspect or have access to any written statement furnished under this Ordinance.
- (2) The Treasurer may
- (a) communicate or allow to be communicated information obtained under this Ordinance, or

(b) allow inspection of, or access to, any written statement furnished under this Ordinance

to a person employed by the Government of Canada or the government of any province in connection with the administration or enforcement of a federal or provincial law.

9.(1) Every dealer shall

Books and records

(a) maintain books and records in respect of his tobacco transactions in sufficient detail to permit examination and calculation of the tax; and

(b) preserve such books and records for such period of time as may be prescribed.

10.(1) Any person so authorized by the Commissioner may enter at any reasonable time the business premises occupied by any person, or the premises where his records are kept, to determine whether or not

Inspection

(a) the person is a dealer within the meaning of this Ordinance; or

(b) this Ordinance and the regulations are being and have been complied with, or to inspect, audit, and examine books of account, records, or documents, or to ascertain the quantities of tobacco purchased, on hand, used, or sold by him, and the person apparently in charge of or occupying the premises shall answer all questions pertaining to these matters and shall produce such books of account, records or documents as may be required.

(2) Where it appears from the inspection, audit or examination of books of account, records or documents that this Ordinance or the regulations have not been complied with, the person making the inspection, audit or examination shall calculate or estimate the tax due, if any, and the Treasurer shall assess the person for the amount of the tax so calculated, but the person so assessed may request a review of the amount of the assessment under Section 11 of this Ordinance.

(3) Proof that an assessment under subsection (2) has been made is prima facie evidence that the amount stated therein is due and owing, and the onus of proving otherwise rests on the person so assessed.

11.(1) If a person disputes an assessment made under subsection (2) of Section 10, he may, within sixty days after receipt of the notice of assessment, request a review of assessment.

Right of review

(2) The request shall be in writing and shall be addressed to the Treasurer.

(3) The request shall set out clearly the reasons for the review and all facts relative thereto.

(4) Upon receipt of the request, the Treasurer shall duly consider the matter and affirm or amend the estimate or assessment and forthwith notify the person making the request in writing of his decision.

- Liability of Tax Collector 12.(1) Every person who collects any tax under this Ordinance shall be deemed to hold such tax in trust for the Treasurer and shall make payment in the manner and at the time provided by the regulations; and the amount until paid, is a lien upon the property in the Territory of the person in default, or his estate in the hands of any trustee.
- Penalty and interest 13.(1) The Treasurer may, in addition to any other penalty or action, assess a penalty equal to ten percent of the amount due, and may assess interest on the amount due at ten percent per annum against any person who fails to pay any tax which he is required to pay under this Ordinance or fails to file returns on due dates as required by the regulations.
- (2) The penalty and interest under this Section form part of the lien provided for in Section 12.
- Bond deposit 14.(1) Where a dealer has failed to collect or to remit tax in accordance with this Ordinance, the Commissioner may require him to deposit a bond by way of cash or other security satisfactory to the Commissioner.
- (2) The amount of the bond shall be determined by the Commissioner, but shall not be greater than an amount equal to six times the tax, or the estimated tax, that would normally be collected by the dealer each month under this Ordinance.
- (3) Where a dealer, who has deposited a bond under subsection (1), fails to collect or to remit tax in accordance with this Ordinance, the Treasurer may, after giving written notice to the dealer either by registered mail, or by personal service, apply the bond in whole or in part to the amount that should have been collected, remitted or paid by the dealer as the amount due in taxes under this Ordinance.
- Liability of Corporation Officers 15.(1) If a corporation commits an offence against this Ordinance, and, if an officer, director, employee, or agent of the corporation directed, authorized, assented to, acquiesced, or knowingly participated in the commission of the offence, that person is a party to and guilty of the offence, but this does not affect the liability of the corporation for the penalties provided for such an offence.
- Offences 16.(1) Every person who
- (a) makes a false statement in any return, report, certificate or form used under this Ordinance;
 - (b) obtains or attempts to obtain or knowingly induces, assists or attempts to assist another person to obtain a reduction of tax;
 - (c) knowingly gives false information respecting any tobacco transaction;
 - (d) refuses or neglects to pay or remit tax or to execute and submit prescribed returns, certificates, reports or forms required by this Ordinance;

- (e) refuses to produce records or documents respecting tobacco transactions, or
- (f) violates any other provisions of this Ordinance, commits an offence against this Ordinance and is liable, upon summary conviction, to a fine not exceeding one thousand dollars or to imprisonment, and each day's continuance of the act or default out of which the offence arises shall constitute a separate offence; but nothing contained in this section or the enforcement of any penalty thereunder shall suspend or affect any remedy for the recovery of any tax.
- (2) In addition to the fine or imprisonment imposed under subsection (1), the offender shall be ordered by the Court to pay the amount of the tax that is owing, on or before such date as shall be fixed by the Court.
- (3) In any prosecution under subsection (1), a certificate purporting to be signed by the Treasurer stating the amount of tax that should have been collected shall be prima facie evidence of the amount of the tax that should have been collected.
- (4) Any information or complaint in respect of an offence under this Ordinance may be for one or more than one offence and no information, complaint, warrant, conviction, or other proceeding in a prosecution under this Ordinance is objectionable or insufficient by reason of the fact that it relates to two or more offences.
- 17.(1) In any prosecution for an offence under this Ordinance or in any action or other proceeding brought for the recovery of tax, the burden of proving that he has paid or remitted tax is on the accused or the defendant. Onus of Proof
- 18.(1) No prosecution for an offence under this Ordinance shall be commenced after two years from the date of the commission of the offence, except that in the case of fraud no limitation applies. Limitation
- 19.(1) In any proceedings against a dealer pursuant to this Ordinance, his application form for a dealer's permit is prima facie evidence that the person is a dealer under this Ordinance. Prosecution evidence
- (2) Where the dealer is described as a partnership on the application form, the application form is prima facie evidence that the persons named thereon are partners.
- 20.(1) For the purpose of carrying into effect the provisions of this Ordinance, the Commissioner may make regulations Regulations
- (a) prescribing forms and records to be used or kept for the purpose of this Ordinance;
- (b) prescribing the method of collection and remittance of the tax and any other conditions or requirements affecting such collection and remittance;
- (c) defining any expression used in the Ordinance or regulations and not herein defined;

- (d) establishing a system of permits to be used by dealers;
- (e) generally for the purpose of carrying out the provisions of this Ordinance.

Coming 21.(1) This Ordinance shall come into force on June 1, 1974.
into force

CHAPTER 4
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE COURT OF APPEAL ORDINANCE

(Assented to April 26, 1974)

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

R.O.Y.T.
Chapter C-20

1. Section 5 of the *Court of Appeal Ordinance* is amended by deleting the expression "justices of appeal" in the second line thereof and substituting the expression "puisne judges" therefor.

Composition
of Court of
Appeal

CHAPTER 5
ORDINANCES OF THE YUKON TERRITORY
(1974 Second Session)

AN ORDINANCE TO AMEND THE ELECTIONS ORDINANCE

(Assented to June 27, 1974)

R.O.Y.T.
Chapter E-1 The Commissioner of the Yukon Territory, by and with
the advice and consent of the Council of the said Territory, enacts
as follows:

- Electoral districts 1. Section 4(1) of the *Elections Ordinance* is repealed and the following substituted therefor:
- "4(1) There shall be twelve electoral districts as described in Schedule I."
- Duty expenses 2. Section 15(2) of the *Elections Ordinance* is repealed and the following substituted therefor:
- "15(2) In addition to the amount provided in subsection (1), there shall be paid to each member of Council representing the electoral districts of
- (a) Ogilvie
 - (b) Mayo
 - (c) Klondike
 - (d) Pelly River
 - (e) Kluane
 - (f) Hootalinqua
 - (g) Watson Lake
- an allowance in respect of duty expenses calculated at the rate of two thousand dollars per annum, and to each member of Council representing the electoral districts of
- (h) Whitehorse Porter Creek
 - (i) Whitehorse West
 - (j) Whitehorse North Centre
 - (k) Whitehorse South Centre
 - (l) Whitehorse Riverdale
- an allowance in respect of duty expenses calculated at the rate of one thousand dollars per annum.
3. Schedule I of the *Elections Ordinance* is repealed and the following substituted therefor:

SCHEDULE I

The following are the electoral districts in the Yukon Territory:

ELECTORAL DISTRICT OF OGILVIE

The Electoral District of Ogilvie consists of that part of the Yukon Territory bounded by a line commencing at the point of intersection of Queen Street and Eighth Avenue in Dawson City; thence eastwardly in a straight line to the intersection of longitude 137 degrees west and latitude 64 degrees north; thence due north to the Peel River; thence eastwardly down the centre line of the Peel River to latitude 66 degrees north; thence due east to the boundary of the Yukon Territory; thence northwardly, westwardly and southwardly along the east, north and west boundaries of the Yukon Territory to a point due west of the intersection of the western prolongation of the centre line of Queen Street in Dawson City and the Yukon River; thence due east to said intersection; thence eastwardly along the western prolongation of the centre line of Queen Street and the centre line of Queen Street to the point of commencement; and including Herschel Island.

ELECTORAL DISTRICT OF MAYO

The Electoral District of Mayo consists of that part of the Yukon Territory bounded by a line commencing at the point of intersection of longitude 132 degrees west and latitude 63 degrees north; thence due north to the eastern boundary of the Yukon Territory; thence northwardly along said boundary to its westernmost crossing of latitude 66 degrees north; thence due west to the centre line of the Peel River; thence westwardly up to the centre line of the Peel River to longitude 137 degrees west; thence due south to latitude 64 degrees north; thence southeasterly to the intersection of longitude 136 degrees west and latitude 63 degrees north; thence due east to the point of commencement.

ELECTORAL DISTRICT OF KLONDIKE

The Electoral District of Klondike consists of that part of the Yukon Territory bounded by a line commencing at the point of intersection of Queen Street and Eighth Avenue in Dawson City; thence eastwardly to the intersection of longitude 137 degrees west and latitude 64 degrees north; thence southeasterly to the intersection of longitude 136 degrees west and latitude 63 degrees north; thence due east to longitude 135 degrees 30 minutes west; thence due south to latitude 61 degrees 45 minutes north; thence due west to longitude 138 degrees west; thence due north to latitude 63 degrees north; thence due west to the west boundary of the Yukon Territory; thence northerly along said boundary to a point due west of the intersection of the western prolongation of the centre line of Queen Street in Dawson City and the Yukon River; thence due east to said intersection; thence eastwardly along the western prolongation of the centre line of Queen Street and the centre line of Queen Street to the point of commencement.

ELECTORAL DISTRICT OF PELLY RIVER

The Electoral District of Pelly River consists of that part of the Yukon Territory bounded by a line commencing at the point of intersection of longitude 132 degrees west and latitude 63 degrees

north; thence due north to the boundary of the Yukon Territory; thence southeastwardly along said boundary to longitude 129 degrees west; thence due south to latitude 61 degrees 45 minutes north; thence due west to longitude 135 degrees 30 minutes west; thence due north to latitude 63 degrees north; thence due east to the point of commencement.

ELECTORAL DISTRICT OF KLUANE

The Electoral District of Kluane consists of that part of the Yukon Territory bounded by a line commencing at the point of intersection of the west boundary of the Yukon Territory and latitude 63 degrees north; thence due east to longitude 138 degrees west, thence due south to latitude 61 degrees 45 minutes north; thence due east to longitude 135 degrees west; thence due south to the limit of the City of Whitehorse; thence northwestwardly and southeastwardly along said city limit to longitude 135 degrees west; thence due south to the south boundary of the Yukon Territory; thence westwardly and northerly along the south and west boundaries of the Yukon Territory to the point of commencement.

ELECTORAL DISTRICT OF HOOTALINQUA

The Electoral District of Hootalinqua consists of that part of the Yukon Territory bounded by a line commencing at the point of intersection of latitude 61 degrees 45 minutes north and longitude 135 degrees west; thence due east to longitude 131 degrees west; thence due south to the southern boundary of the Yukon Territory; thence westwardly along said boundary to longitude 135 degrees west; thence due north to the limit of the City of Whitehorse; thence eastwardly and northwestwardly along said city limit to longitude 135 degrees west; thence due north to the point of commencement.

ELECTORAL DISTRICT OF WATSON LAKE

The Electoral District of Watson Lake consists of that part of the Yukon Territory bounded by a line commencing at the point of intersection of the south boundary of the Yukon Territory and longitude 131 degrees west; thence due north to latitude 61 degrees 45 minutes north; thence due east to longitude 129 degrees west; thence due north to the boundary of the Yukon Territory; thence southeastwardly and westerly along the east and south boundaries of the Yukon Territory to the point of commencement.

ELECTORAL DISTRICT OF WHITEHORSE PORTER CREEK

The Electoral District of Whitehorse Porter Creek consists of that part of the City of Whitehorse bounded by a line commencing at Co-ordinate Control Monument 70G-139-1970 in the Whitehorse co-ordinate survey area; thence due west to the limit of the City of Whitehorse; thence northwestwardly and eastwardly along said city limit to the centre line of the Yukon River; thence southwardly up to the centre line of the Yukon River to a point due east of Co-ordinate Control Monument 70G-139-1970 in the Whitehorse co-ordinate survey area; thence due west to the point of commencement.

ELECTORAL DISTRICT OF WHITEHORSE WEST

The Electoral District of Whitehorse West consists of that part of the City of Whitehorse bounded by a line commencing at the point of intersection of the western prolongation of the centre line of

Jarvis Street and the foot of the escarpment; thence northeastwardly along the foot of the escarpment to a point being due east of Co-ordinate Control Monument 70G-139-1970 in the Whitehorse co-ordinate survey area; thence due west to the limit of the City of Whitehorse; thence southwardly, eastwardly and northeastwardly along said city limit to the centre line of the Yukon River; thence northwardly down the centre line of the Yukon River to a point due east of the northernmost point of Lot 523; thence due west to the foot of the escarpment; thence northwardly along the foot of the escarpment to the point of commencement.

ELECTORAL DISTRICT OF WHITEHORSE NORTH CENTRE

The Electoral District of Whitehorse North Centre consists of that part of the City of Whitehorse bounded by a line commencing at the point of intersection of the western prolongation of the centre line of Jarvis Street and the foot of the escarpment; thence northeastwardly along the foot of the escarpment to a point being due east of Co-ordinate Control Monument 70G-139-1970 in the Whitehorse co-ordinate survey area; thence due east to the centre line of the Yukon River; thence southwardly up the centre line of the Yukon River to a point being the eastern prolongation of the centre line of Jarvis Street; thence westwardly along said prolongation and the centre line of Jarvis Street and its western prolongation to the point of commencement.

ELECTORAL DISTRICT OF WHITEHORSE SOUTH CENTRE

The Electoral District of Whitehorse South Centre consists of that part of the City of Whitehorse bounded by a line commencing at the point of intersection of Lewes Boulevard and the Hospital Road; thence due east to the limit of the City of Whitehorse; thence northwestwardly and westwardly along said city limit to the centre line of the Yukon River; thence southwardly up the centre line of the Yukon River to a point being the eastern prolongation of the centre line of Jarvis Street; thence westwardly along said prolongation and the centre line of Jarvis Street and its western prolongation to the foot of the escarpment; thence southeastwardly along the foot of the escarpment to a point due west of the northernmost point of Lot 523; thence due east to the centre line of the Yukon River; thence down the centre line of the Yukon River to the centre line of the Robert Campbell Bridge; thence eastwardly along the centre line of said bridge and its prolongation to the point of commencement.

ELECTORAL DISTRICT OF WHITEHORSE RIVERDALE

The Electoral District of Whitehorse Riverdale consists of that part of the City of Whitehorse bounded by a line commencing at the point of intersection of Lewes Boulevard and the Hospital Road; thence due east to the limit of the City of Whitehorse; thence southwardly along said city limit to the centre line of the Yukon River; thence northwardly down the centre line of the Yukon River to the centre line of the Robert Campbell Bridge; thence eastwardly along the centre line of said bridge and its prolongation to the point of commencement.

CHAPTER 6
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE ELECTRICAL PUBLIC UTILITIES ORDINANCE

(Assented to March 29, 1974)

R.O.Y.T. 1972
Chapter 4

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

Interim
permission

1. Section 19 of the said Ordinance is amended by adding thereto the following new subsection:

"19.(2) Notwithstanding subsection (1) where, in respect of any area of the Territory, no franchise has been granted, the Board may, subject to any conditions it may impose from time to time, recommend to the Commissioner or a municipality an interim permission to a person to operate a public utility."

Approval of
board required

2. Section 21 of the said Ordinance is amended by adding thereto the following new subsection:

"21.(2) Notwithstanding section 118 of the Municipal Ordinance, a municipality shall obtain the approval of the Board for the granting or renewing of a franchise for the supply of electricity before seeking the approval of the ratepayers or the Commissioner."

Complaints

3. Subsection 26(1) of the said Ordinance is repealed and the following substituted therefor:

"26.(1) The Council of any municipality within whose boundaries a public utility operates or twenty-five residents of the municipality, or where a public utility operates outside a municipality, five residents of the area to which the public utility provides service may file a complaint with the Board respecting

- (a) the rates charged by the public utility or the classifications to which these rates apply;
- (b) a proposed rate increase by the public utility notice of which has been given pursuant to section 23;
- (c) the manner in which the public utility provides service;

- (d) the areas to which the public utility provides service; or
- (e) the conditions including any payments to be made in respect thereof, imposed by public utilities in establishing, constructing, maintaining or operating an extension to its facilities."

CHAPTER 7
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE FAIR PRACTICES ORDINANCE

(Assented to April 26, 1974)

R.O.Y.T.
Chapter F-2 The Commissioner of the Yukon Territory, by and with
the advice and consent of the Council of the said Territory, enacts
as follows:

1. Section 3 of the *Fair Practices Ordinance* is repealed
and the following substituted therefor:

Employers not
to discriminate

"3.(1) No employer shall refuse to employ, or to
continue to employ, a person or adversely
discriminate in any term or condition of
employment of such person, because of the
race, religion, religious creed, colour,
ancestry, sex, marital status or ethnic or
national origin of such person.

Discriminatory
application forms

(2) No person shall require an applicant for
employment to complete a form of application
for employment that requires the applicant
to give particulars as to his race, religion,
religious creed, colour, ancestry, sex,
marital status or ethnic or national origin.

Membership in
trade unions

(3) No trade union shall exclude any person from
full membership, or expel or suspend or
otherwise discriminate against any of its
members, or discriminate against any person
in regard to his employment by any employer,
because of the race, religion, religious
creed, colour, ancestry, sex, marital status
or ethnic or national origin of that person.

Discharge
expulsion, etc.

(4) No employer or trade union shall discharge,
expel or otherwise discriminate against any
person because he has made a complaint or
given evidence or assisted in any way in
respect of the initiation or prosecution of
a complaint or other proceeding under this
Ordinance."

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

Discrimination
prohibited

"4.(1) No person shall, because of the race, religion,
religious creed, colour, ancestry, sex, marital
status or ethnic or national origin of any
person, deny to that person the accommodation,
services or facilities available in any place
to which the public is customarily admitted.

- (2) No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall
 - (a) deny to any person or class of persons occupancy of any apartment in any building that contains more than six self-contained dwelling units, or
 - (b) discriminate against any person or class of persons with respect to any term or condition of occupancy of any apartment in any building that contains more than six self-contained dwelling units,
 because of the race, religion, religious creed, colour, ancestry, sex, marital status or ethnic or national origin of such person or class of persons.
- (3) This section shall not apply where
 - (a) the accommodation, services, facilities or occupancy is restricted to persons who are of the same sex."

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

"5.(1) No person shall Publication of discriminatory signs prohibited

- (a) publish or display or cause to be published or displayed, or
- (b) permit to be
 - (i) published in a newspaper that he controls, or
 - (ii) displayed on lands or premises that he controls,

any notice, sign, symbol, emblem or other representation indicating discrimination, or an intention to discriminate, against any person or any class of persons in respect of the accommodation, services or facilities to which Section 4 applies, or in respect of employment or prospective employment, because of the race, religion, religious creed, colour, ancestry, sex, marital status or ethnic or national origin of that person or class of persons."

4.(1) Paragraph 13(1)(d) of the said Ordinance is repealed.

(2) Subsection 13(3) of the said Ordinance is repealed and the following substituted therefor:

"13.(3) Nothing in this Ordinance deprives any employer Idem of the right to employ persons of any particular race, religion, religious creed, colour, ancestry, sex, marital status, or ethnic or national origin in preference to other persons where such preference is based upon a bona fide occupational qualification."

CHAPTER 8
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE INTERPRETATION ORDINANCE

(Assented to April 26, 1974)

R.O.Y.T.
Chapter I-3

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

1. Section 20 of the *Interpretation Ordinance* is amended by repealing the definition "holiday" and substituting the following therefor:

"holiday"

"20. "holiday" includes Sunday, New Year's Day, Good Friday, Easter Monday, Victoria Day, Dominion Day, Discovery Day (being the third Monday in August), Labour Day, Remembrance Day, Christmas Day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign and any other day appointed by proclamation for a general fast or thanksgiving, and whenever a holiday falls on a Sunday, the expression "holiday" includes the following day:"

CHAPTER 9
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE LABOUR STANDARDS ORDINANCE

(Assented to May 13, 1974)

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

R.O.Y.T.
Chapter L-1

1. Section 31 is repealed and the following substituted therefor:

"31.(1) Where an employee employed in or in relation to

- (a) custodial work;
- (b) essential services, or
- (c) a continuous operation,

is required to work on a day that is a holiday under this Part he shall, in addition to his regular rate of pay for the hours worked by him on that day

- (d) be paid not less than time and one half his regular rate of pay for all hours worked by him on that day, or
- (e) be given 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."

Custodial
work and
essential
services and
continuous
operation

2. Paragraph 49(1)(g) is repealed and the following substituted therefor:

"(g) prescribing custodial work, essential services and continuous operation for the purposes of section 31; and"

3. Section 5 is amended by adding thereto the following new subsection:

"(4.1) An individual to whom paragraph 4(f) applies, is not included in the application of this Part by reason only of the occasional performance of duties other than those of a supervisory or managerial character."

Exception

CHAPTER 10
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE MINING SAFETY ORDINANCE

(Assented to April 26, 1974)

R.O.Y.T.
Chapter M-9

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

1. Subsection 10(1) of the *Mining Safety Ordinance* is repealed and the following substituted therefor:

Restriction
as to age

"10.(1) No person under the age of eighteen years shall be employed underground or at the working face of any open cut workings, pit or quarry."

CHAPTER 11
ORDINANCES OF THE YUKON TERRITORY
(1974 Second Session)

AN ORDINANCE TO AMEND THE MOTOR VEHICLES ORDINANCE

(Assented to June 27, 1974)

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

R.Y.O.T.
Chapter M-11

1. Subsections 9(2) and (3) are repealed and the following substituted therefor:
 - "9(2) No person shall operate and no owner shall permit the operation of a motor vehicle on a highway unless a valid and subsisting motor vehicle liability policy of insurance is in force in respect of such vehicle.
 - (3) No person shall operate a motor vehicle on a highway unless he has in the motor vehicle a valid motor vehicle liability insurance card in a form approved by the Commissioner.
 - (4) Any person who
 - (a) contravenes the provisions of subsection (2), or
 - (b) produces to a peace officer, officer or the Registrar of Motor Vehicles
 - (i) a motor vehicle liability insurance card purporting to show that there is in force a policy of insurance that is, in fact, not in force, or
 - (ii) gives or loans to any person not entitled to have it, a motor vehicle liability insurance card,commits an offence and, upon conviction, is liable to a fine of not less than two hundred and fifty dollars, or to imprisonment for a period of three months, or to both fine and imprisonment.
 - (5) A certificate of the Commissioner stating that the person named therein has not taken out or maintained in force a policy of motor vehicle liability insurance as required by subsection (1) is admissible in evidence in a prosecution of such a person for violation of that subsection, and is prima facie proof of the statement contained in the certificate."
2. Subsection 62(3) is repealed and the following substituted therefor:

"62.(3) Every trailer other than a trailer drawn by a trucktractor and attached thereto by means of a device commonly known as a "fifth wheel" 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."

3. Paragraph 155(1)(w) of the said Ordinance is repealed.

4. The said Ordinance is further amended by adding thereto the following new section:

Fees

"175.(1) Notwithstanding any provision of this Ordinance, the fees to be established pursuant to any section of this Ordinance, shall be in accordance with the tariff of fees pursuant to Schedule II of this Ordinance.

Saving

(2) Notwithstanding subsection (1), any fees established by regulations made by the Commissioner and in force on the 26th day of June, 1974 or expressed to come into force on the 1st day of February, 1975, shall continue in force as if they were made pursuant to subsection (1) until amended and set out in Schedule II of this Ordinance."

CHAPTER 12
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE NOTARIES ORDINANCE

(Assented to April 26, 1974)

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

R.O.Y.T.
Chapter N-3

1. Subsection 6(1) of the *Notaries Ordinance* is repealed and the following substituted therefor:

"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 or magistrate, the Territorial Secretary shall enroll 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."

Enrolment
after
examination

CHAPTER 13
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE PUBLIC SERVICE STAFF RELATIONS ORDINANCE

(Assented to May 13, 1974)

- R.O.Y.T.
Chapter P-11
- The Commissioner of the Yukon Territory, by and with the
advice and consent of the Council of the said Territory, enacts as
follows:
1. *The Public Service Staff Relations Ordinance* is amended
by adding to section 2 the following definition:
"Deputy
Chairman"
"Deputy Chairman" means a Deputy Chairman of the
Board."
 2. *The Public Service Staff Relations Ordinance* is
amended by repealing subsections 7(1), 7(2) and
7(3) thereof and substituting the following therefor:
Membership
of the Board
"7.(1) There shall be a Board to be called the
Yukon Public Service Staff Relations Board
consisting of a Chairman, a Vice-Chairman,
not more than three Deputy Chairmen and
not less than four nor more than eight
other members to be appointed as being
representative in equal numbers of the
interests of employees and of the interests
of the employer respectively.
Tenure
(2) The Chairman, the Vice-Chairman, the Deputy
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.
Reappointment
(3) A retiring Chairman, Vice-Chairman, Deputy
Chairman or other member may be reappointed
to the Board in the same or another capacity."
 3. *The Public Service Staff Relations Ordinance* is
amended by adding thereto the following new section:
Provision for
Deputy Chairman
"8.(2) A Deputy Chairman may exercise such of the
powers and functions of the Chairman under
this Ordinance as may be assigned to him by
the Chairman other than the power to act as
Chairman in the circumstances described in
section 8(1)."

- 4.(1) Paragraph 12(2)(a) of the *Public Service Staff Relations Ordinance* is repealed and the following substituted therefor:
- Meetings for
conduct of
business
- "12.(2)(a) The Chairman, Vice-Chairman or a Deputy Chairman; and"
- (2) Subsection 12(3) of the *Public Service Staff Relations Ordinance* is repealed and the following substituted therefor:
- Decision of
majority
- "12.(3) A decision of a majority of those present at any meeting of the Board, or a division thereof, is a decision of the Board or the division thereof, as the case may be, except that
- (a) where both the Chairman and Vice-Chairman are present at any meeting of the Board, only the Chairman may vote;
 - (b) where both the Vice-Chairman and a Deputy Chairman are present at any meeting of the Board, only the Vice-Chairman may vote; and
 - (c) where both the Chairman and a Deputy Chairman are present at any meeting of the Board, only the Chairman may vote."
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CHAPTER 14
ORDINANCES OF THE YUKON TERRITORY
(1974 Second Session)

AN ORDINANCE TO AMEND THE SCHOOL ORDINANCE

(Assented to June 27, 1974)

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

Short Title

Citation 1. This Ordinance may be cited as the *School Ordinance*.

PART I

Interpretation

Definitions 2.(1)	In this Ordinance,
"assistant superintendent"	"assistant superintendent" means an assistant superintendent of Education appointed pursuant to subsection 9(1);
"Board"	"Board" means a Board of School Trustees of a school district duly constituted under this Ordinance;
"elementary school"	"elementary school" means the several grades in any school as defined by the Commissioner in regulations;
"Lay-off"	"lay-off" means a person who has been laid off pursuant to section 93 and who is suitable and qualified for continued employment as a teacher;
"parent"	"parent" includes the lawful guardian of a child;
"pupil"	"pupil" means a person who is enrolled in a school;
"registrar"	"registrar" means the registrar appointed pursuant to subsection 9(2);
"regional superintendent"	"regional superintendent" means a regional superintendent of Schools appointed pursuant to subsection 9(1);
"school committee"	"school committee" means a school committee duly established under this Ordinance;
"school"	"school" means a school to which this Ordinance applies;
"secondary school"	"secondary school" means the several grades in any school as defined by the Commissioner in regulations;
"superintendent"	"superintendent" means the Superintendent of Education appointed pursuant to section 8;
"school-year"	"school-year" means a year commencing on the first day of July and ending on the thirtieth day of June next following;
"tax payer"	"tax payer" 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;

"teacher" means a person holding a valid and subsisting certificate of qualification issued pursuant to section 16, who is appointed or employed by the Commissioner or a Board to give tuition or instruction or to administer or supervise instructional service in a school, and includes a person to whom is issued, pursuant to this Ordinance, a letter of permission to teach and for the purpose of sections 79 to 99 includes any person who is an employee pursuant to section 118 but does not include a person appointed pursuant to sections 8 or 9.

"teacher"

PART II

Classification of Schools

- | | | |
|-------|---|----------------|
| 3.(1) | The school system of the Yukon Territory shall consist of: | Classification |
| | (a) Territorial Schools established by the Commissioner pursuant to sections 4 and 5; and | |
| | (b) District Schools established pursuant to Part IX. | |

PART III

General Administration

- | | | |
|--------|---|------------------------------|
| 4.(1) | The Commissioner may establish Territorial Schools at any place in the Territory. | Territorial Schools |
| 5.(1) | The Commissioner may establish Territorial Schools at any place in the Territory exclusively or mainly for the education of children not of the Roman Catholic faith. | Non-Catholic Schools |
| (2) | The Commissioner may establish Territorial Schools at any place in the Territory exclusively or mainly for the education of children of the Roman Catholic faith. | Catholic Schools |
| 6.(1) | The Commissioner may close any school established pursuant to sections 4 or 5. | Closure |
| 7.(1) | The Commissioner shall operate, manage and maintain any school established by him pursuant to sections 4 or 5. | Operation |
| 8.(1) | The Commissioner shall appoint an officer to be called the Superintendent of Education. | Superintendent of Education |
| 9.(1) | The Commissioner may appoint assistant superintendents of education, regional superintendents of schools, and other persons to assist the Superintendent in the performance of his duties under this Ordinance. | Other Departmental Officials |
| (2) | The Commissioner may appoint a registrar who shall perform such duties and functions as may be assigned to him. | |
| 10.(1) | An assistant superintendent or regional superintendent, designated by the Commissioner, has all the powers, | Absence of Superintendent |

duties and functions of the Superintendent when

- (a) the Superintendent is ill or absent;
- (b) the Superintendent is unable to act, or
- (c) the position is vacant.

Appointment of teachers 11.(1)

The Commissioner shall, on the recommendation of the Superintendent, employ teachers and other persons to fulfill the requirements of this Ordinance.

Medical Examination 12.(1)

The Commissioner may require a teacher or other employee under this Ordinance to submit to a medical examination.

Certificates of Qualification 13.(1)

The Commissioner shall determine the Certificates of Qualification, the grades and categories of such Certificates, and the terms and conditions under which such Certificates shall be issued to teachers and other persons to whom this Ordinance applies and govern the granting of such Certificates.

Courses of Study 14.(1)

The Commissioner may prescribe the courses of study to be used in schools and he may authorize the Superintendent to make modifications and adaptations to such courses.

Variation in Courses (2)

Subject to subsection (1), the Superintendent may, at the request of a school committee who have consulted with the principal, or where there is no school committee, at the request of a principal, authorize:

- (a) the use of a course of study;
- (b) the adaptation or modification of a course of study; and
- (c) the use of a textbook or other instructional materials or apparatus

in a particular school for a specified period of time.

Schools Books etc. (3)

The Commissioner may supply books and other instructional materials or apparatus to teachers, pupils or boards on such terms as he may determine.

Superintendent of Education

Powers of Superintendent 15.(1)

The Superintendent shall have general superintendence over all matters pertaining to the education of children in the Territory and shall ensure that the provisions of this Ordinance are carried out.

(2)

With respect to a school established under Part IX of this Ordinance, the Superintendent shall exercise all the powers and perform all the duties described in this Ordinance except those which are, by the provisions of Part IX of this Ordinance, especially given to or imposed upon the Board.

Duties of Superintendent 16.(1)

The Superintendent shall

- (a) furnish copies of this Ordinance and the Regulations to school boards, school committees and teachers;
- (b) supervise all schools operated under this Ordinance;
- (c) arrange, in respect of schools operated under this

Ordinance, for the examination and investigation of:

- (i) the progress of pupils in learning;
 - (ii) the order and discipline observed;
 - (iii) the system of instruction pursued;
 - (iv) the professional development of teachers;
 - (v) the mode of keeping school records; and
 - (vi) the condition of the buildings and premises;
- and, with respect to these matters, make reports to the Commissioner;

- (d) prepare and submit an annual report to the Commissioner respecting the administration of this Ordinance not later than three months after the end of the school year;
- (e) have charge of the issuing of certificates of qualification to teachers and other persons to whom this Ordinance applies;
- (f) perform such other duties as may be assigned to him by the Commissioner.

(2) The annual report made by the Superintendent under this section shall be laid before the Council by the Commissioner within fifteen days after the opening of the next regular session thereof or within five days if the Council is in session. Annual Report

17.(1) The Superintendent may Further Powers

- (a) issue letters of permission for teaching pursuant to the regulations;
- (b) require the preparation and completion of reports from persons under his supervision;
- (c) designate school attendance areas throughout the Territory;
- (d) on the application of the parent of a child who has attained the age of fourteen years, grant permission for the child to discontinue attendance at school where:
 - (i) the child is not making or is not likely to make further progress in school; and
 - (ii) it is in the best interest of the child.

Board of Examiners

18.(1) There shall be a Board of Examiners composed of the Superintendent who shall be Chairman and two members appointed by the Commissioner. Board of Examiners

(2) Each member of the Board of Examiners, other than the Chairman, shall hold office during pleasure for a term of three years and shall be paid such remuneration as may be determined by the Commissioner.

(3) The Board of Examiners may appoint any examiners and assistants as required for the purposes of this Ordinance. Additional Staff

- Examinations** 19.(1) The Board of Examiners shall conduct examinations as directed by the Commissioner and shall report thereon to the Commissioner.
- Review of Results** (2) The Board of Examiners shall, in accordance with the regulations, at the request of an examination candidate or the parent of a candidate, review or cause to be reviewed the results of any examination conducted by the Board.

Regional Superintendent of Schools

- Duties of Regional Superintendent** 20.(1) A Regional Superintendent shall:
- (a) assist the Superintendent in carrying out the provisions of this Ordinance;
 - (b) assist and advise school committees in the performance of their duties under this Ordinance;
 - (c) furnish members of school committees and teachers with information respecting this Ordinance;
 - (d) prepare a report on the operation of any school in his region as required by the Superintendent or as requested by a school committee of a school;
 - (e) submit a copy of any report prepared at the request of a school committee, pursuant to paragraph (d) to the Superintendent;
 - (f) make a written evaluation of the work of each teacher in his region who is on probationary appointment not less than once each year and each other teacher in his region not less than once in every three years;
 - (g) make a written evaluation of the work of
 - (i) any teacher in the region with respect to whom the Superintendent or a school committee requests a report; and
 - (ii) any teacher in the region who, on or before the thirty-first day of March in that school year, requests that a report be made with respect to himself;
 - (h) submit any reports made by him pursuant to paragraphs (f) and (g) to the Superintendent and send one copy to the teacher in respect of whom the report was made;
 - (i) discuss with a school committee any report made by him at the request of the school committee pursuant to paragraph (d) or subparagraph (g)(i);
 - (j) attend at least one meeting of each school committee in his region in each school year;
 - (k) investigate and report upon the conduct of any pupil when requested to do so by the Superintendent;
 - (l) discuss with a school committee alterations and additions to the physical facilities of the school;
 - (m) perform such other duties as may be assigned to him by the Superintendent; and
 - (n) subject to any instructions of the Superintendent:
 - (i) provide leadership in evaluating and improving the educational program in a region;

- (ii) exercise general supervision over the schools in his region and visit them as frequently as possible but not less than twice in each school year;
 - (iii) assign teachers to their respective schools.
- (2) (a) The Regional Superintendent shall discuss with the principal and the school committee, where there is a school committee, how funds allocated to the school may be spent.
- (b) The Regional Superintendent shall discuss with the principal and the school committee, where there is a school committee, the initiation and application of local educational policies.

Principal

- 21.(1) The Superintendent or a Board shall have the authority to appoint the principal of a school. Appointment of Principal
- (2) The principal of a school shall be a teacher.
- (3) A teacher appointed to be the principal of a school is on probation as a principal for two years from the date of his appointment as a principal. Probationary Period
- (4) The appointment of a principal on probation may be terminated by the Superintendent or the Board by giving him not less than one month's notice in writing.
- (5) If a principal on probation does not receive notice in writing from the Superintendent or the Board of the termination of his appointment prior to March 31st of the second year of his appointment as a principal, his appointment shall be a continuing one.
- (6) Where a teacher appointed as a principal pursuant to this section was, immediately before his appointment as a principal, employed as a teacher on a continuing appointment and his appointment as a principal is terminated pursuant to subsection (4), he is entitled to be re-employed as a teacher following the termination of his appointment as a principal. Rights of Former Principal
- (7) The Superintendent or a Board shall have the authority to appoint a vice-principal of a school. Vice-Principal
- (8) The provisions of subsection 21(3) to (6) shall apply mutatis mutandis to a teacher who is appointed as a vice-principal.
- 22.(1) A principal shall, subject to any instructions of the Superintendent or a Regional Superintendent: Duties of Principal
- (a) have charge of the organization, administration, and supervision of the school, including supervision over
 - (i) the classification and programming of pupils;
 - (ii) the time-tables of the teachers;
 - (iii) the method of instruction and general discipline pursued in all grades;
 - (iv) the maintenance of school records;

- (v) the conduct of pupils on school premises during curricular and extra-curricular activities sponsored or organized by the school; and
- (vi) the conduct of pupils during curricular and extra-curricular activities sponsored or organized by the school but conducted outside of school premises;
- (b) have charge of the supervision and direction of all staff assigned to the school;
- (c) have charge of the supervision and direction of all persons who volunteer to serve in the school without remuneration;
- (d) in accordance with directions given to him by the Superintendent or Regional Superintendent
 - (i) once each year make a written evaluation of the work of each teacher under his supervision holding a probationary appointment; and
 - (ii) make a written evaluation of the work of any teacher under his supervision in respect of whom the Superintendent or a Regional Superintendent requests an evaluation;
- (e) ensure that each teacher is in his classroom or on the school premises fifteen minutes immediately preceding the commencement of instruction in each school day;
- (f) report promptly to the Regional Superintendent the apparent outbreak of any contagious or infectious disease in the school, or any insanitary condition of the school building or surroundings;
- (g) ensure the proper care of school buildings, premises and equipment by all persons using them;
- (h) be responsible for keeping the school buildings and grounds clean and in fit condition;
- (i) report to the Regional Superintendent any repairs to the building or equipment which are required;
- (j) requisition all necessary materials, supplies and equipment for the school and arrange for their proper distribution;
- (k) be responsible for and account for all materials, supplies and equipment provided for use in the school;
- (l) maintain any records and complete any returns and forms required by the Superintendent;
- (m) verify by affidavit any return made by him when required to do so by the Superintendent;
- (n) notify the Superintendent of all absences of the staff of the school;
- (o) assign teaching duties to the teachers in the school;
- (p) perform such teaching duties as may be required of him in the school;
- (q) perform such other duties as may be required of him by the Superintendent or Regional Superintendent.

- (2) Where a principal makes a written evaluation of a teacher pursuant to paragraph (1)(d), he shall send the original of the report to the Regional Superintendent, furnish a copy to the teacher and retain a copy until the end of the school year, at which time he shall transmit that copy to the Regional Superintendent.
- 23.(1) The principal of a school shall make rules not inconsistent with this Ordinance governing the conduct of the staff and pupils. School Rules
- (2) Where there is a school committee, a principal shall consult with the school committee prior to making rules governing the conduct of the pupils.
- 24.(1) A principal of a school may, with the approval of the Regional Superintendent, authorize a member of the staff to perform, in the absence of the principal, any of the duties, powers and functions that may be or are required to be performed or exercised by the principal under this Ordinance. Absence of Principal
- 25.(1) A principal shall discuss with the school committee, where there is a school committee, and the Regional Superintendent, how funds allocated to the school may be spent. Discussion of Spending and Policies
- (2) A principal shall discuss with the school committee, where there is a school committee, and the Regional Superintendent, the initiation and application of local educational policies.
- 26.(1) A principal may, in accordance with the regulations, administer punishment to pupils. Punishment of Pupils

PART IV

Pupils

- 27.(1) Any child who attains the age of five years and eight months on or before the first day of September in any year may attend school. Optional Attendance
- (2) A child who may attend school pursuant to subsection (1) but is not required to attend school pursuant to section 29 is only entitled to attend school if he is enrolled in a school on or before September 30 of the year referred to in subsection (1).
- 28.(1) A child who has attained the age of five years and has previously been legally enrolled in a publicly-supported school shall be admitted to the appropriate grade, as determined by the Superintendent, whenever he presents himself for enrolment. Right of Former Pupils
- 29.(1) Except as otherwise provided in this Ordinance: Compulsory Attendance
- (a) every child who attains the age of six years and eight months on or before the first day of September in any year shall attend school on every school day from the first school day in September of that year until the last school day in June in the year in which he attains the age of sixteen years;
- (b) every child who attains the age of six years and eight months after the first day of September in

any year shall attend school on every school day from the first school day in September in the next succeeding year until the last school day in June in the year in which he attains the age of sixteen years.

- Exceptions** (2) A child is not required to attend school where:
- (a) the child is unable to attend school by reason of illness or other unavoidable cause;
 - (b) the child is excluded from attendance at school under any Ordinance;
 - (c) in the opinion of the Superintendent, the child is receiving satisfactory instruction at home or elsewhere;
 - (d) the child is absent on a day regarded as a holy day by the church or religious denomination to which he belongs;
 - (e) the child's absence is authorized by regulation;
 - (f) the child is permitted, by the Superintendent, to discontinue attendance pursuant to paragraph 17(1)(d);
 - (g) the child is suspended pursuant to section 39; or
 - (h) a child, at the reasonable request of a parent, is permitted by the principal to be temporarily absent from school.
- Truancy an Offence** (3) A parent of a child who is required, pursuant to this Ordinance, to attend school, who neglects or refuses to cause his child to attend school, is, unless the child is legally excused from attendance, guilty of an offence and is liable on summary conviction to a fine of not more than \$25.00.
- Power to Order Attendance** (4) The justice may, instead of imposing a fine, require the person convicted of an offence, to give a bond or other security conditioned that the person should cause the child to attend school as required by this Ordinance, and the justice may order such person to cause the child to attend school as required by this Ordinance.
- Further Offences** (5) A person who fails to cause a child to attend school when required by a justice, pursuant to subsection (4), commits an offence and is liable on summary conviction to a fine of not more than \$250.00 or to imprisonment for a term not exceeding one month or to both fine and imprisonment, and each day's continuance of such failure or neglect shall constitute a separate offence.
- (6) A child who is required to attend school pursuant to this Ordinance, who is habitually absent from school, without being legally excused, commits an offence.
- Evidence** (7) In prosecutions under this section, a certificate as to the attendance or non-attendance at school of any child, signed or purported to be signed by the principal of the school, is prima facie evidence of the facts stated therein without any proof of the signature or appointment of the principal.
- (8) Where a person is charged under this section in respect of a child who is alleged to be of compulsory school age and the child appears to the justice to be of compulsory school age, the child shall for the purposes of the

prosecution be deemed to be of compulsory school age unless the contrary is proved.

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| 30.(1) | The Commissioner may appoint school attendance counsellors who shall, under the direction of a Regional Superintendent and subject to the Ordinance, enforce compulsory school attendance and perform such other duties as may be assigned by the Superintendent. | Enforcement |
| 31.(1) | Except as authorized by the Superintendent, pupils shall attend the designated school in the attendance area within which they reside. | Designated Schools |
| 32.(1) | The Commissioner may provide correspondence courses of instruction. | Correspondence Courses |
| 33.(1) | It shall be the duty of every pupil to
(a) observe the rules of the school he attends;
(b) carry out such learning activities as may be required by his teachers;
(c) diligently pursue the courses of instruction and carry out such activities as may be required of him in class or at any school function whether in or outside school;
(d) regularly attend school as may be required by this Ordinance;
(e) refrain from damaging or mutilating any school property;
(f) present himself punctually at each session of school clothed appropriately in keeping with the custom of the school;
(g) return any school books or apparatus on loan to him when required by his teacher or principal. | Duties of Pupils |
| 34.(1) | Where any pupil wilfully mutilates, destroys, or without permission removes any school property, the parent of such pupil shall be liable for damages. | Damage to School Property |

Religious Instruction

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| 35.(1) | Religious instruction may be given to children in school during the first half hour of each school day or during such other period as the Commissioner may prescribe. | Religious Instruction |
| (2) | Where religious instruction is given in a Territorial school pursuant to subsection (1), any child attending that school may, with the written approval of his parent, leave the class during the time that such religious instruction is given. | Excuse for Non-Attendance |
| (3) | No pupil shall be required to participate in any patriotic exercise to which his parent has objected in writing. | |

School Health

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| 36.(1) | The Commissioner shall appoint a School Medical Officer for the Territory. | School Medical Officer |
| (2) | No person shall be appointed as School Medical Officer unless he is a duly licensed medical practitioner. | |

- Duties (3) The School Medical Officer may from time to time appoint other persons to perform such duties in respect of the health inspection of pupils and schools as he may consider necessary or expedient.
- (4) The School Medical Officer shall from time to time make or cause to be made examinations as to the general health of the pupils attending school.
- (5) The School Medical Officer shall carefully examine or cause to be examined the school buildings and surroundings and report to the Superintendent the result of his examination together with any recommendations he may wish to make.
- Report to Superintendent (6) Where the School Medical Officer considers that the condition of the health of any pupil is a danger to the health of the other pupils attending school, he shall report the matter to the Superintendent.
- Carriers (7) The Superintendent shall remove from school any pupil whose condition of health is reported by the School Medical Officer to be dangerous to the health of other pupils and the pupil shall not be permitted to return to the school until his condition is no longer a danger to the other pupils.
- Closure of School (8) Where, pursuant to subsection (5), the School Medical Officer recommends that a school shall be closed, the Superintendent shall forthwith transmit the recommendation to the Commissioner who shall close the school pursuant to section 6 until the conditions requiring the closure have been remedied.

Transportation

- 37.(1) In this section, "home" means the home or other residence designated by the Commissioner as the home of the pupil for the purpose of this section.
- Provision of Transport (2) Where a pupil's home is more than two miles by the nearest passable road from the designated school he attends, the Commissioner shall provide transportation for the pupil to and from the school and the pupil's home, or an allowance in lieu of transportation, or accommodation, or an allowance in lieu thereof, or provide education by correspondence.
- (3) Where a pupil's home is less than two miles by the nearest passable road from the designated school the pupil attends, the Commissioner may, subject to the prescribed fee and any conditions imposed by the Regulations, provide transportation for the pupil to and from the school and the pupil's home.
- (4) Where there are special circumstances related to the extreme youth or physical condition of the pupil, the Commissioner may provide transportation for a pupil whose home is less than two miles by the nearest passable road from the designated school he attends, or an allowance in lieu of transportation.
- Transportation Allowances 38.(1) Where a pupil, whose home is in the Territory, is compelled and does live away from home in order to attend a Territorial school, the Commissioner shall provide accommodation or an allowance in lieu thereof in respect of the pupil.

Pupil Suspension

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| 39.(1) | <p>Where a pupil:</p> <ul style="list-style-type: none"> (a) is persistently truant; (b) habitually neglects his duties; (c) habitually uses profane or improper language; (d) persistently disobeys school rules; (e) wilfully disobeys the principal or a teacher; (f) behaves in open opposition to the principal or a teacher or his behaviour has a harmful effect on the character or person of other pupils; (g) is addicted to any vice or practice likely to injuriously affect the character or person of other pupils, <p>the principal may suspend the pupil.</p> | Reasons for
Suspension |
| 40.(1) | <p>Where a principal suspends a pupil pursuant to section 39, he shall forthwith make a report in writing to his Regional Superintendent stating the reasons for the suspension and transmit copies of the report to the parent of the pupil and, where there is a school committee for the school, to the school committee.</p> | Reports |
| 41.(1) | <p>The parent of a pupil who has been suspended, or where there is no parent, the pupil may, within ten days of the suspension, or at any time during the suspension, appeal by notice in writing to the Regional Superintendent.</p> | Appeal |
| 42.(1) | <p>On receipt of the notice of appeal mentioned in section 41, the Regional Superintendent shall forthwith arrange to hear the appeal within two weeks and</p> <ul style="list-style-type: none"> (a) where there is a school committee, the provisions of sections 43 to 48 shall apply; and (b) where there is no school committee, the provisions of sections 49 to 51 shall apply. | Time for
Appeal |
| 43.(1) | <p>Where there is a school committee, the Regional Superintendent shall sit together with the school committee and consider the matter and shall give the principal, the pupil and his parent an opportunity to make representations, orally or in writing, either personally, or by counsel or agent, but the committee and the Regional Superintendent shall not be bound by the rules of evidence applicable to the courts.</p> | Procedure |
| 44.(1) | <p>Where the Regional Superintendent and the school committee agree, they shall make a joint recommendation to the principal, who shall carry out the terms of the recommendation.</p> | Result of
Appeal |
| 45.(1) | <p>Where the Regional Superintendent and school committee do not agree on the recommendation to be made, the Regional Superintendent and the school committee shall transmit to the Superintendent their respective recommendations.</p> | Report to
Superintendent |
| 46.(1) | <p>On receipt of the recommendations mentioned in section 45, the Superintendent shall investigate the matter and shall give the parties an opportunity to make representations orally, or in writing, either personally or by counsel or agent.</p> | Further
Appeal |

Superintendent's Decision Final	47.(1)	After considering the matter, the Superintendent shall render a decision, in writing, to all persons concerned in the matter, and his decision shall be final and the principal and the pupil shall be bound by the decision.
Who may Appeal	48.(1)	A pupil's parent or a principal may, within ten days of the receipt of the recommendation of the Regional Superintendent and the school committee pursuant to section 44, appeal the recommendation by notice in writing to the Superintendent, and the provisions of sections 46 and 47 shall apply mutatis mutandis.
Procedure	49.(1)	Where there is no school committee, the Regional Superintendent shall consider the matter and shall give the pupil's parent and the principal an opportunity to make representations, orally or in writing, either personally, or by counsel or agent, but the Regional Superintendent shall not be bound by the rules of evidence applicable to the courts.
Result	50.(1)	After considering the matter, the Regional Superintendent shall make a recommendation to the principal who shall carry out the terms of the recommendation.
Procedure	51.(1)	A pupil's parent or a principal may, within ten days of the receipt of the recommendation of the Regional Superintendent pursuant to section 50, appeal the recommendation by notice in writing to the Superintendent, and the provisions of sections 46 and 47 shall apply mutatis mutandis.
School Board	52.(1)	Where there is a school board, the provisions of sections 40 to 51 in relation to a school committee shall apply to the school board mutatis mutandis.
Interpretation	53.(1)	In this section: "pupil" includes a former pupil; "record" means a record maintained or retained in respect of a pupil by the principal of a school or the Superintendent.
Pupil Records Privileged	(2)	(a) Except as provided by this section, a record is privileged for the information and use of persons appointed pursuant to this Ordinance and the principal and teachers of the school, and is not available to any other person. (b) Except as provided by this section and subsection 29(5), a record is not admissible evidence for any purpose in any trial, inquest, inquiry, examination, hearing or other proceedings, except to prove the establishment, maintenance, retention or transfer of the record, without the written permission of the parent of the pupil or, where the pupil has attained the age of nineteen years, the written permission of the pupil.
Parent or Pupil may Examine Record	(3)	(a) A pupil who has reached the age of nineteen years is entitled to examine the record kept in respect of himself. (b) Where a pupil has not attained the age of nineteen years, the parent of such pupil is entitled to examine the record of that pupil.

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| (4) | Where, in the opinion of a pupil who has attained the age of nineteen years, or of the parent of a pupil who has not attained such age, information recorded upon the record of the pupil is
(a) inaccurately recorded, or
(b) not conducive to the improvement of instruction of the pupil,

the pupil or his parent as the case may be, may in writing, request the principal to correct the alleged inaccuracy in, or to remove the impugned information from such record. | Correction
of Record |
| (5) | Where the principal refuses to comply with a request under subsection (4) and the pupil or parent who made the request does not agree with such refusal, the matter in disagreement may be referred by either party to the Regional Superintendent who shall forthwith submit the record and a statement of the disagreement to the Superintendent. | Dispute |
| (6) | After affording the principal and the pupil or parent who made the request an opportunity to be heard, the Superintendent shall decide the matter and communicate the decision to the parties concerned and his decision is binding upon all parties. | Decision of
Superintendent
Final |
| (7) | Where a written request is made by a pupil or his parent, the principal, the Regional Superintendent or the Superintendent may use the record of the pupil to assist in the preparation of a report for the pupil in respect of an application for further education or for employment. | Use for
Benefit of
Pupil |
| (8) | No action shall be brought against any person in respect of the content of a record. | Action Stayed |
| (9) | Except where the record has been introduced in evidence as provided in this section, no person shall be required in any trial or other proceeding to give evidence in respect of the content of a record. | Record
Privileged |
| (10) | Except as permitted under this section, every person shall preserve secrecy in respect of the content of a record which comes to his knowledge in the course of his duties or employment and no such person shall communicate any such knowledge to any other person except
(a) as may be required in the performance of his duties;
(b) with the written consent of the parent of the pupil where the pupil has not attained the age of nineteen years, or
(c) with the written consent of the pupil where the pupil has attained the age of nineteen years. | Secrecy
Required |

PART V

SCHOOL COMMITTEES

Election Procedures

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| 54.(1) | Where the Commissioner receives a petition in the prescribed form signed by not less than ten persons living in the school attendance area of a Territorial school who would, | Establishment
of School
Committee |
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if a school committee were established, be entitled to vote at an election for the members of the school committee, the Commissioner shall, by order, establish a school committee for that Territorial School.

- (2) The number of members of a school committee shall be determined in accordance with the regulations.

Initial
Procedure

55.(1)

Where the Commissioner has established a school committee pursuant to subsection 54(1), he shall appoint a person who shall:

- (a) arrange for a public meeting to be held within the school attendance area;
- (b) not less than ten days prior to the date of the meeting post in four conspicuous places within the school attendance area or advertise in the community, a notice of the public meeting;
- (c) preside over the meeting and explain the functions, duties and powers of the school committee;
- (d) at the meeting explain the nomination and election procedures to be followed in the election of the first school committee;
- (e) accept nominations for membership on the first school committee at the meeting, or for a period of five days immediately following the meeting;
- (f) if the number of nominations for membership on the school committee does not exceed the number of members to be elected pursuant to subsection (2), declare the persons nominated to be elected;
- (g) arrange for an election meeting to be held not less than twenty-one days after the date of the meeting mentioned in paragraph (1)(a) within the school attendance area;
- (h) not less than ten days prior to the date of the election meeting post in four conspicuous places within the school attendance area or advertise in the community,
 - (i) a notice of the election meeting; and
 - (ii) a list of the candidates.
- (i) preside over the election meeting, act as returning officer and report the results of the election to the Commissioner.

Nomination
of Candi-
dates

56.(1)

Every nomination of a candidate for election as a member of a school committee, shall be signed by the candidate, and at least two eligible voters of the school attendance area and delivered to the person appointed to act as returning officer.

- (2) A list of the candidates who have been nominated pursuant to subsection (1) shall be posted at the election meeting.

Eligibility

(3)

Every person who is a Canadian citizen or landed immigrant pursuant to the *Immigration Act*, who has attained the age of nineteen years and who has continuously resided in the attendance area for a period of twelve months immediately preceding the date of nomination, shall be eligible to become a member of a school committee.

Eligibility
of Voters

(4)

Every person who has attained the age of nineteen years

- and who has continuously resided in the attendance area for a period of twelve months immediately preceding the date of the election shall be eligible to vote at an election of a school committee.
- (5) The election of members of a school committee shall be by secret ballot. **Secret Ballot**
- (6) No teacher or other person employed in a school may be a member of the school committee of the school in which he is employed. **Ineligibility**
- (7) Each committee member shall be elected to hold office for two years from the time of his election. **Two Year Term of Office**
- (8) Notwithstanding subsection (7), not less than half of the committee members elected at the first election of a school committee shall hold office for one year from the time of their election. **Exception for First Committee**
- (9) The members who shall retire pursuant to subsection (8) shall be those members obtaining the least number of votes at the election and, in any case, where the number of votes is equal or candidates are chosen by acclamation, the members to retire shall be chosen by casting lots.
- 57.(1) Except as provided in subsection (2), a person who votes at an election or a by-election for the school committee of a school in the attendance area in which he resides, is not entitled to vote at an election or by-election for a school committee of any other school within that attendance area. **Voting Restricted**
- (2) A parent who has children attending more than one school may vote at the election of the committee for each school at which he has a child attending. **Exception**
- 58.(1) At their first meeting the members of a school committee shall designate one of the members to be chairman of the committee. **Chairman of Committee**
- (2) If the chairman is unable to act by reason of absence or incapacity, the members shall choose one of their number to exercise the powers and functions of the chairman.
- 59.(1) A majority of the members of the committee constitutes a quorum. **Quorum**
- (2) The chairman shall vote on any matter coming before the Committee, and in the case of an equality of votes, the question shall be deemed to have been defeated.
- 60.(1) The committee shall meet not less than four times during the school year, and at least once every three months. **Obligatory Meetings**
- (2) The committee shall hold its first meeting within one month after the election meeting mentioned in paragraph 55(1)(g) or subsection 67(1).
- (3) Where the school committee has failed to meet for one year as provided by this section, the Commissioner may revoke the order establishing the school committee. **Penalty for Failure**
- 61.(1) The chairman shall keep or cause to be kept minutes of all meetings. **Minutes**

- (2) The chairman shall send a copy of the minutes of every meeting to the Regional Superintendent within fourteen days of every meeting.
- Absence** 62.(1) A person is not qualified to remain a member of a school committee if he is absent from two consecutive regular meetings of the committee, except by leave of the committee.
- Represent-
ative
Meetings** 63.(1) Each school committee shall choose a representative to attend meetings called by the Superintendent pursuant to subsection (2).
- (2) The Superintendent shall convene a meeting of the representatives from each school committee at least once each school year and at the meeting the representatives may:
- (a) discuss the Superintendent's Annual Report;
 - (b) advise generally on the operation of education programmes in the Territory; and
 - (c) consider and discuss any report, plans or proposals placed before them by the Superintendent.
- Annual
General
Meeting** 64.(1) A public annual general meeting in each school attendance area shall be held in April or May of each year.
- (2) The school committee shall fix the time and place of the public annual general meeting and give notice thereof by posting notices in four conspicuous places in the attendance area, or by advertising in the community.
- Chairman** 65.(1) The chairman of the school committee shall be the chairman of the public annual general meeting, and in his absence, the school committee shall appoint one of its members to act as chairman.
- Annual
Report** 66.(1) At the public annual general meeting, the school committee shall present a report of its activities during the school year and the meeting may pass resolutions for the guidance of the school committee.
- Election
Meeting** 67.(1) The election of members of the school committee shall be held at a meeting called by the outgoing chairman of the school committee and shall be held annually during the month of September or October.
- (2) The school committee shall appoint a returning officer and scrutineer to carry out an election.
- (3) Not less than fourteen days notice of an election meeting shall be given by posting a notice of the meeting in four conspicuous places in the attendance area or by advertising in the community, and the notice shall call for nominations of candidates for membership of the school committee.
- (4) Nominations may be accepted by the returning officer at any time prior to the time of an election.
- (5) If the number of nominations for membership on the

school committee does not exceed the number of members to be elected, the returning officer shall declare the persons nominated to be elected.

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| (6) | An election shall be carried out in accordance with the provisions of section 56. | Procedures |
| (7) | A member of the committee is eligible to be re-elected. | |
| (8) | The returning officer and scrutineer shall be responsible for the issuing of ballots at an election meeting to persons eligible to vote. | |
| (9) | Immediately after the election the returning officer shall <ul style="list-style-type: none"> (a) examine the ballots and add up the votes polled for each candidate; (b) prepare a statement of election returns setting out the total number of votes received by each candidate; (c) publicly declare the candidates for the vacant offices having the highest number of votes to be duly elected; and (d) transmit the results of the election to the Superintendent. | |
| (10) | When a tie occurs in the election the returning officer shall break the tie by casting lots. | |
| (11) | In any dispute respecting the conduct of an election, the decision of the returning officer shall be final. | |
| 68.(1) | Where a vacancy occurs on a school committee, the school committee shall, within one month, call a meeting of the persons residing in the school attendance area for the purpose of holding a by-election to fill the vacancy. | By-Election |
| (2) | A by-election to fill a vacancy shall be conducted in the same manner as a regular election of members of a school committee. | |
| 69.(1) | Where there is no candidate for the vacant office mentioned in subsection 68(1), or where for any other reason the vacant office is not filled by a by-election, the school committee may appoint a person to fill the vacancy or, where there is no quorum of the school committee, the Superintendent may appoint a person to fill the vacancy. | Appointment
to fill
Vacancy |
| 70.(1) | A person elected or appointed to fill the vacancy mentioned in subsection 68(1), shall serve for the balance of the term of office of the school committee to which he is elected or appointed. | Term of
Office |
| 71.(1) | Every person elected or appointed as a member of a school committee shall, before assuming office, take and subscribe to the prescribed oath before a person qualified to administer oaths. | Oath of
Office |

Duties

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| 72.(1) | A School Committee may: <ul style="list-style-type: none"> (a) advise the Regional Superintendent respecting the appointment of the principal of the school; | Duties and
Powers |
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- (b) advise the Regional Superintendent on all educational matters affecting the school;
- (c) pursuant to section 44, make recommendations to the principal respecting the suspension of students;
- (d) pursuant to section 45, make recommendations to the Superintendent respecting the suspension of students;
- (e) (i) request the Regional Superintendent to evaluate the performance of a teacher in the school; and
 (ii) request the Regional Superintendent to prepare a report on the operation of the school;
- (f) discuss with the Regional Superintendent any report made by him pursuant to paragraph (e);
- (g) meet with the principal and the Regional Superintendent to discuss the annual reports of the principal and the Superintendent;
- (h) in consultation with the principal, determine the disposition of the three non-instructional school days referred to in section 109;
- (i) approve the allocation of school days for extra-curricular activities;
- (j) after consultation with the principal, request the Superintendent to authorize a course of study or modification of a course of study or a textbook or other instructional material or apparatus for a specified period of time;
- (k) advise the principal on the hours of pupil attendance and on the duration of any recesses or intermissions;
- (l) discuss with the principal and the Regional Superintendent alterations and additions to the physical facilities of the school;
- (m) discuss with the principal and the Regional Superintendent how funds allocated to the school may be spent;
- (n) discuss with the principal and the Regional Superintendent the initiation and application of local educational policies;
- (o) request the principal or the Regional Superintendent to attend a meeting of the committee;
- (p) request the Superintendent to provide clerical assistance to the committee as required;
- (q) make recommendations to the principal regarding student dress for the school.

Saving of Reports

- (2) A school committee is not entitled to retain a copy of any report made by the Regional Superintendent pursuant to subparagraph (1)(e)(i).

Pupil Representative

- (3) A school committee may request the pupils of a school to select a representative from amongst their number and the school committee may request such representative to attend meetings of the school committee from time to time other than a meeting called to discuss a report made pursuant to paragraph (1)(e) or subparagraph 20(1)(g)(i).

PART VITEACHERSDuties

- 73.(1) Every teacher shall:
- Duties of Teachers
- (a) encourage his pupils in the pursuit of learning and teach them diligently and faithfully;
 - (b) report on the progress and attendance of his pupils to the parents of his pupils in accordance with the regulations;
 - (c) as required by the principal, maintain order and discipline while on duty in the school, on the playground and at school functions;
 - (d) keep such registers and attendance records as may be required by the Superintendent;
 - (e) maintain records and complete returns and forms required by the Superintendent;
 - (f) observe the rules of the school to which he is assigned;
 - (g) notify the principal of his absence from the school and the reason therefor;
 - (h) verify by affidavit any return made by him when required to do so by the Superintendent;
 - (i) report promptly to the principal the apparent outbreak of any contagious or infectious disease in the school, or an insanitary condition of the school building or surroundings;
 - (j) admit to his classroom, for the purpose of observing tuition, the parent of a child enrolled in his class;
 - (k) upon the direction of the Superintendent admit student teachers and their instructors to his classroom, for the purpose of observing tuition and practising teaching, and, without additional remuneration or salary, render assistance to the student teachers, and submit reports on the teaching ability of the student teachers;
 - (l) perform such other related duties as may be required by his principal; and
 - (m) be entitled to examine any record maintained or retained in respect of him by the Superintendent or the Director of Personnel in the presence of a personnel officer or any person appointed pursuant to subsection 9(1).
- (2) Any registers or records kept pursuant to paragraph (1)(d) may be inspected at any time by the Superintendent or by any person authorized by the Superintendent.

Certificate of Qualification

- 74.(1) Every teacher is required to hold a valid and subsisting Certificate of Qualification issued pursuant to the regulations.
- Certificate of Qualification
- 75.(1) Where a teacher is employed pursuant to section 11, he shall furnish to the Registrar all material relevant to his qualifications and experience and shall provide such evidence in relation thereto as the Registrar may require.
- Relevant Material

Issue of Certificate	76.(1)	On receipt of the material mentioned in section 75, the Registrar shall transmit the material to the Superintendent for a decision in respect of the grade of Certificate of Qualification to be issued to the teacher.
Grade of Certificate	(2)	The Superintendent shall evaluate the material supplied to him and, where the teacher is eligible, issue a Certificate of Qualification to the teacher and specify the grade of Certificate to be issued.
Teacher Qualification Board Decides Category of Certificate	77.(1)	Where the Superintendent issues a Certificate of Qualification to a teacher, the Registrar shall forthwith refer the material mentioned in section 75 to the Teacher Qualification Board for a decision in respect of the category of Certificate of Qualification to be assigned to the teacher.
Provisional Assignment of Category	(2)	Pending the decision of the Teacher Qualification Board, the Registrar shall provisionally assign a category of Certificate of Qualification to the teacher, and the teacher shall be paid in accordance with the provisionally assigned category of Certificate of Qualification until the matter has otherwise been determined by the Teacher Qualification Board.
Teacher Paid by Category	78.(1)	The Teacher Qualification Board shall have the jurisdiction to assign to a teacher a category of Certificate of Qualification and the teacher shall be paid in accordance with that category.

Termination

Notice of Resignation	79.(1)	A teacher who wishes to resign shall give the Superintendent or a Board not less than thirty days' notice in writing.
	(2)	Notice of resignation may not be given to the Superintendent or a Board by a teacher between June 1 and September 1 of any year.
	(3)	Notwithstanding subsection (2) the Superintendent or Board may because of special circumstances permit a teacher who submits a written request to resign between June 1 and September 1 of any year.

Probation

Two Years Probation	80.(1)	A teacher employed pursuant to this Ordinance is on probation for two years from the date of commencement of his employment.
Termination	(2)	The employment of a teacher on probation may be terminated by <ul style="list-style-type: none"> (a) the Commissioner, on the recommendation of the Superintendent; or (b) a Board

by giving him not less than thirty days' notice in writing.

- (3) If a teacher on probation does not receive notice in writing from the Commissioner or a Board, of the termination of his employment prior to May 31st of the second school year of his employment, his appointment shall be a continuing one. Change to Continuing Appointment

- 81.(1) A teacher on probation whose employment has been terminated pursuant to subsection 80(2), and who moves from his place of employment in the Territory to another location, shall, subject to this section, be paid his moving expenses in accordance with the employer's policy on moving expenses. Rights of Terminated Probationers

- (2) In order to qualify for the payment of moving expenses pursuant to this section, a teacher
 - (a) must have received moving expenses upon initial hire;
 - (b) must move from his place of employment within the Territory to his new location within two months of his termination; and
 - (c) must furnish satisfactory evidence of the moving expenses incurred.

- (3) Moving expenses paid pursuant to this section shall not be payable in respect of a distance greater than the distance from the teacher's original point of hire to his place of employment in the Territory.

- (4) Where moving expenses are paid to a teacher pursuant to this section, no further moving expenses shall be paid to the teacher.

- (5) Where a teacher is moving to another location to take up employment and his moving expenses are payable by his new employer, no moving expenses shall be paid to the teacher pursuant to this section.

Suspension and Dismissal

- 82.(1) A Regional Superintendent or a Board may suspend a teacher: Reasons for Suspension or Dismissal
 - (a) for misconduct, neglect of duties, or refusal or neglect to obey a lawful order;
 - (b) where the teacher is incapable of performing his duties;
 - (c) where the teacher is unsatisfactory in performing his duties;
 - (d) where the teacher has been charged with a criminal offence and the circumstances thereby created render it inadvisable for him to continue his duties.

- (2) Where a Regional Superintendent or a Board suspends a teacher pursuant to subsection (1), the teacher and the Superintendent shall forthwith be notified in writing of the suspension and the reason therefor. Notification

Right of Bargaining Agent	(3)	An employee in the bargaining unit who is suspended pursuant to subsection (1) may request an interview with the Regional Superintendent and may be accompanied by his bargaining agent.
Recommendation for Dismissal	(4)	A Regional Superintendent or a Board who suspends a teacher may make a recommendation for dismissal.
Appeal to Superintendent	83.(1)	A teacher who is suspended by a Regional Superintendent or a Board pursuant to subsection 82(1), may appeal the suspension to the Superintendent by written notice not later than two weeks from the date of suspension.
First Decision Stands if no Appeal	(2)	If no appeal is submitted within two weeks with respect to the suspension imposed pursuant to subsection 82(1), the decision of the Regional Superintendent or the Board shall be final and binding.
	(3)	Where a recommendation for dismissal has been made in conjunction with a suspension and where no appeal has been made pursuant to subsection (1), the Superintendent may recommend to the Commissioner that the teacher be dismissed.
Teacher to be Heard	84.(1)	Where the Superintendent receives an appeal pursuant to subsection 83(1), he shall investigate the matter and give the teacher an opportunity, within two weeks of receipt of the appeal, to make representations orally or in writing either personally or by Counsel or agent, or with his consent his bargaining agent.
Powers of Superintendent on Appeal	(2)	Where the Superintendent, after carrying out the provisions of subsection (1) is satisfied that the suspension of the teacher was warranted, he may confirm or modify the order of suspension and, where the suspension was accompanied by a recommendation for dismissal, the Superintendent may recommend to the Commissioner that the teacher be dismissed.
	(3)	Where the Superintendent is satisfied that the reason for the suspension is unwarranted, he shall: <ul style="list-style-type: none"> (a) terminate or revoke the order of suspension; (b) reprimand the teacher in writing; or (c) take other appropriate action.
Time limit for Decision	85.(1)	Not later than two weeks after carrying out the provisions of subsection 84(1), the Superintendent shall notify the teacher and the Regional Superintendent or the Board in writing of his decision.
Commissioner Bound by Decision	86.(1)	Where the Superintendent recommends the dismissal of a teacher to the Commissioner or the Board, the Commissioner or the Board shall forthwith dismiss the teacher and the teacher thereupon ceases to be an employee with effect from the date fixed for dismissal.
Appeal to Adjudicator	87.(1)	A teacher who is an employee within the meaning of section 118 may, within two weeks of receipt of the decision of the Superintendent, appeal the decision to

an adjudicator appointed by the Chairman of the Yukon Teachers Staff Relations Board and the decision of the adjudicator thereon shall be final and binding.

- (2) Where an appeal is made pursuant to subsection (1), the provisions of sections 182 to 196 shall apply.
- 88.(1) On receipt of the decision of the adjudicator, the Commissioner shall take any action necessary to implement the decision. Adjudicator's Decision to be Implemented
- 89.(1) A teacher shall not be entitled to be paid his salary for the period for which he is under suspension but the Commissioner or the Board may make an allowance not exceeding one half of the amount of his salary to a teacher who has been suspended with a recommendation for dismissal. Half Salary During Suspension
- (2) Where the original order of suspension is revoked, the teacher shall be entitled to be paid his full salary during the period of suspension, less the amount of any allowance which may have been paid to him during that period. Full Salary if Suspension Terminated
- 90.(1) Where a teacher suspended pursuant to paragraph 82(1)(d) is acquitted of the charge in respect of which he was suspended, the Superintendent or the Board shall reinstate him after the expiry of the appeal period or the expiry of the period for appeal from the last court from which the appeal from the acquittal is taken and in which he is acquitted, whichever is the later. Reinstatement on Acquittal
- (2) Where the teacher suspended pursuant to paragraph 82(1)(d) is convicted of the charge in respect of which he was suspended, the Commissioner or the Board may dismiss him after the expiry of the appeal period or after the expiry of the period for appealing from the last court to which appeal from conviction is taken and in which he is convicted, whichever is the later. Dismissal on Conviction
- 91.(1) Notwithstanding sections 83, 85 and 87, time limits regulating the processing of decisions and appeal may be extended by mutual agreement between the Superintendent and the teacher. Extensions of Time

Abandonment

- 92.(1) Where a teacher is absent from duty without leave for a period in excess of five consecutive instructional days, he may by notice in writing be declared by the Superintendent or a Board to have abandoned his position and thereupon the teacher ceases to be an employee. Abandonment

Lay-Off

- 93.(1) At the end of any school year, the Superintendent or a Board may lay-off a teacher where: Conditions for Lay-Off
- (a) there is a decrease in the enrolment of pupils;

- (b) a school, classroom or instructional department is closed and instruction therein is discontinued; or
 - (c) an instructional programme is discontinued.
- (2) A teacher shall be entitled to not less than sixty days; notice of a lay-off.
- Lay-off not Employee 94.(1) A teacher who is laid off in accordance with subsection 93(1), ceases to be an employee.
- Re-employment without Competition One year's Re-eligibility (2) The Superintendent or a Board may, without competition, re-employ a lay-off as a teacher.
- (3) A lay-off is eligible, for a period of six months, or such longer period not exceeding one year after he was laid off, as the Superintendent or the Board may determine to be re-employed as a teacher.
- Priority of Consideration (4) A lay-off shall be considered for re-employment as a teacher in priority to all other qualified persons and in priority to all other persons who became lay-offs at an earlier time.
- Merit Order (5) Where teachers are to be laid off and there are other teachers who hold similar qualifications, the Superintendent or a Board shall, after considering such material and conducting such examinations, tests, interviews and investigations as are considered necessary, list the teachers in order of their merit, commencing with the teacher with the greatest merit and the teachers shall be laid off in order beginning with the teacher with the least merit.
- Re-employment in Merit Order (6) Where two or more teachers were laid off at the same time and the Superintendent or the Board intends to make an appointment from amongst these lay-offs, the Superintendent or the Board shall first consider for appointment the teacher with the greatest merit according to the list mentioned in subsection (5).
- Termination of Rights (7) A person ceases to be a lay-off if:
 - (a) he is re-employed as a teacher;
 - (b) he is not re-employed as a teacher within a year from the date on which he became a lay-off; or
 - (c) he declines re-employment as a teacher.
- Rights of Lay-Off 95.(1) A lay-off who has been laid off pursuant to subsection 93(1), and who moves from his place of employment in the Territory to another location shall, subject to this section, be paid his moving expenses in accordance with the employer's policy on moving expenses upon furnishing satisfactory evidence of the expenses incurred.
- Limitation on Rights 96.(1) In order to qualify for the payment of moving expenses pursuant to section 95, a lay-off
 - (a) must have received moving expenses upon initial hire;

- (b) must move from his place of employment within the Territory to his new location within two months of his lay-off; and
 - (c) must furnish satisfactory evidence of the moving expenses incurred.
- (2) Moving expenses paid pursuant to section 95 shall not be payable in respect of a distance greater than the distance from the lay-off's original point of hire to his place of employment in the Territory.
 - (3) Where moving expenses are paid pursuant to section 95, no further moving expenses shall be paid to the lay-off.
 - (4) Where a teacher is moving to another location to take up employment and his moving expenses are payable by his new employer no moving expenses shall be paid to the teacher pursuant to this section.

Retirement

- 97.(1) No teacher shall be engaged or regularly employed in any school in the Territory beyond the end of the school year during which he attains the prescribed obligatory retirement age. Retirement
at 65

Political Office

- 98.(1) A teacher shall not become a candidate for election as a member of the House of Commons or the Council of the Yukon Territory without first obtaining leave of absence, without pay, pursuant to subsection (2). Political
Leave
- (2) The Commissioner shall, where operational requirements permit, grant leave of absence without pay to a teacher
 - (a) to seek nomination as a candidate, or
 - (b) to be a candidate for election
 as a member of the House of Commons or the Council of the Yukon Territory for a period ending on the day on which the results of the elections are officially declared or on an earlier day as may be requested by the teacher if he has ceased to be a candidate.
- (3) A teacher who becomes a candidate for election as a member of the House of Commons or the Council of the Yukon Territory without having been granted leave of absence without pay by the Commissioner pursuant to subsection (2), shall be dismissed.
- (4) A teacher becomes a candidate pursuant to subsection (3) when nomination papers nominating him as a candidate are filed with the returning officer. When a
Candidate
- 99.(1) A teacher who is elected as a member of the House of Commons or the Council of the Yukon Territory shall be deemed to have resigned his appointment as a teacher from the date of his election. Successful
Candidate to
Resign

Temporary Employment

- Regulating Casual Employment** 100.(1) The Commissioner may make regulations providing for the selection, appointment, conditions of employment and remuneration of teachers and other persons performing duties of a casual, part-time or seasonal nature.
- (2) A person who is employed for a specified period pursuant to subsection (1), ceases to be employed at the expiration of that period.

Teacher Qualification Board

- Interpretation** 101.(1) In sections 102 to 106, "Board" means the Teacher Qualification Board.
- Teacher Qualification Board** 102.(1) There shall be a Board consisting of a Chairman and two members to be appointed by the Commissioner pursuant to this section.
- Established Superintendent to be Chairman** (2) The Superintendent shall be Chairman of the Board.
- Teachers Association Representative** (3) One member of the Board shall be appointed by the Commissioner on the recommendation of the executive of the association representing the majority of the teachers and the other member shall be appointed from outside the Public Service of the Territory.
- Teachers Ineligibility** (4) A teacher is not eligible for appointment as a member of the Board.
- Tenure** (5) Each member of the Board, other than the Chairman, shall hold office during pleasure for a term of three years and shall be paid such remuneration as may be determined by the Commissioner.
- Meetings** (6) Meetings of the Board shall be held at the call of the Chairman.
- Absence of Member** (7) In the absence of a member, or his inability to act, or in the case of a vacancy in the office, the remaining members shall exercise the powers of the Board.
- Substitute Appointments** (8) The Commissioner may appoint, in the same manner as the original appointment, a person to act in the stead of any member of the Board who is unable, at any time, to perform the duties of his office.
- Rules** (9) The Board may make rules governing the conduct of its own procedure.
- Quorum** (10) Two members of the Board shall constitute a quorum.
- Power of Board** 103.(1) The Board shall have the jurisdiction to decide the category of Certificate of Qualification to be assigned to any teacher.

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| (2) | In deciding the category of Certificate of Qualification to be assigned to a teacher, the Board shall decide the matter in accordance with the regulations. | Decision
According to
Regulations |
| (3) | The Board shall decide the category of Certificate of Qualification of a teacher and the Registrar shall assign a category in accordance with the decision of the Board. | |
| (4) | Where a teacher has been required by the Board to submit evidence or material relevant to the matter before the Board and fails, refuses or neglects to submit the evidence or material required, the Board may proceed to decide the matter on the evidence before it. | Submission of
Material |
| (5) | Notwithstanding any other provision of this Ordinance, where the Board is of the opinion that any application is frivolous or vexatious it may summarily dismiss the application. | Frivolous
Applications |
| (6) | The decision of the Board in respect of the category of Certificate to be assigned to a teacher shall be final and binding. | Board
Decision
Final |
| (7) | Except as otherwise provided in this Ordinance, a teacher shall be paid in accordance with the category of Certificate of Qualification assigned to him pursuant to this section. | Teachers
Paid by
Category |
| 104.(1) | On receipt of a reference pursuant to subsection 77(1), the Board shall consider the category of Certificate of Qualification to be assigned to the teacher and may require the Registrar or the teacher to submit additional evidence or material. | Board must
Consider |
| (2) | Where the Board determines that a category of Certificate of Qualification be assigned to the teacher which is different from the category provisionally assigned to the teacher by the Registrar, the teacher's salary shall be adjusted in accordance with the salary applicable in respect of the category determined by the Board from the time of the teacher's employment. | Adjustment
of Salary |
| 105.(1) | Prior to November 15 in any school year, a teacher may apply in writing to the Registrar for a review of the category of Certificate of Qualification assigned to him on the grounds that he has qualified for a higher category of Certificate since the last determination of the Board in respect of his category of Certificate. | Re-application
with Higher
Qualifications |
| (2) | The applicant shall furnish to the Registrar with his application all material and evidence relevant to his application. | |
| (3) | The Registrar may require the applicant to submit additional evidence or material. | |
| (4) | The Registrar shall forthwith refer the application | Refer to
Board |

together with the evidence and material to the Board for a decision.

- (5) As soon as possible in the school year in which the application was made, the Board shall consider the matter and may request the Registrar or the teacher to submit further evidence or material.
- (6) The Board may confirm or vary the category of Certificate assigned to the teacher and its decision on the matter shall be final and binding.
- Amendment if Justified** (7) Where the Board decides that the category of Certificate of Qualification of the teacher be varied, the Superintendent shall amend the Certificate held by the teacher in accordance with the decision of the Board.
- Salary Adjusted on Variation** 106.(1) Except as provided by section 105 where the Board varies the category of Certificate of Qualification of a teacher the salary of the teacher shall be governed by the provisions of subsections (2) and (3).
- Increase of Salary** (2) If the salary applicable to the teacher pursuant to the new category is higher than the salary of the teacher at the time of the decision of the Board, the teacher's salary shall be adjusted accordingly from the commencement of the school year in which the new category is assigned.
- Salary not Diminishable** (3) If the salary applicable to the teacher pursuant to the new category is lower than the salary being paid to the teacher at the time of the decision of the Board, the teacher's salary shall not be diminished and shall continue to be paid to him until the salary applicable to the teacher pursuant to the new category exceeds the salary being paid to him at the time of the decision.

GENERAL PROVISIONS

School Year

- School Holidays** 107.(1) The following days shall be school holidays:
- (a) every Saturday
 - (b) every Sunday
 - (c) New Year's Day
 - (d) Good Friday
 - (e) Easter Monday
 - (f) Victoria Day (Queen's Birthday)
 - (g) Discovery Day
 - (h) Labour Day
 - (i) Thanksgiving Day
 - (j) Remembrance Day
 - (k) Christmas Day
 - (l) Any day proclaimed a holiday by the Governor-General or the Commissioner.

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| (2) | Instruction in a school year shall commence on the date fixed in Schedule VI to this Ordinance. | Commencement of School Year |
| (3) | There shall be a spring vacation consisting of five consecutive days, inclusive of any holiday pursuant to subsection (1), commencing on the Monday of the third full week in March. | Spring Vacation |
| (4) | There shall be a Christmas vacation, inclusive of any holiday pursuant to subsection (1), which shall commence and end on the dates fixed in Schedule VI to this Ordinance. | Christmas Vacation |
| (5) | Instruction shall terminate in a school year on the date fixed by the Commissioner pursuant to section 109. | End of Instruction in School Year |
| (6) | The Superintendent may at the request of the school committee of the Old Crow School substitute vacations and holidays in some other part of the school year for part of the time allowed for holidays and vacations in this Part but not so as to diminish the number of instructional days in a school year pursuant to subsection 108(2). | Variation for Old Crow |
| (7) | A request pursuant to subsection (6) must be submitted not later than April 1st in respect of the ensuing school year. | |
| 108.(1) | There shall be 190 school days in a school year. | 190 School Days |
| (2) | One hundred and eighty-seven school days shall be instructional days during which days all pupils shall attend school for instruction. | 187 School Days |
| (3) | The principal of each school shall, on the advice of the Board or the school committee, determine the disposition of the three non-instructional school days. | Disposition of Non-Instructional Days |
| (4) | Where no school committee exists in respect of a Territorial School, the principal, with the approval of the Regional Superintendent, shall determine the disposition of the three non-instructional school days. | |
| 109.(1) | The Commissioner shall on or before May 1 in each year issue a school calendar setting forth, in respect of the ensuing school year: | Content of School Calendar |
| | (a) the date of commencement of instruction in the school year, as determined pursuant to Schedule VI; | |
| | (b) the dates of the spring vacation and Christmas vacation, as determined pursuant to Schedule VI; | |
| | (c) the number of school days and holidays other than Saturdays and Sundays in each month in the school year; | |
| | (d) the date when instruction shall terminate in the school year; and | |
| | (e) any additional information which is required for the purpose of this Ordinance. | |

School Day

- Elementary Schools Instruction Time 5 Hours 110.(1) In elementary schools, the school day for instructional purposes shall comprise five hours of instructional time, exclusive of any recesses or intermissions.
- (2) Notwithstanding subsection (1), a principal may with the approval of the school committee or, where there is no school committee, the Regional Superintendent, reduce the instructional time for pupils in Grade I to 4 1/2 hours each school day.
- Secondary Schools Instruction Time 5 Hours 111.(1) In secondary schools, the school day for instructional purposes shall comprise five hours of instructional time, exclusive of any recesses or intermissions.
- Hours of Pupil Attendance and Recesses 112.(1) A principal shall, in consultation with the school committee or, where there is no school committee, the Regional Superintendent, determine the hours of pupil attendance and the duration of any recesses or intermissions.
- Programme of Kindergarten Instruction Established Non-Compulsory 113.(1) The Commissioner shall establish a programme of kindergarten instruction within the Territorial school system.
- (2) No child shall be compelled to attend a programme of kindergarten instruction.
- One Session Attendance (3) A child may not attend more than one session of kindergarten instruction per day in a kindergarten established pursuant to subsection (1).
- Eligibility of Child (4) A child is not eligible for kindergarten instruction in a programme established pursuant to subsection (1) until he has attained the age of 4 years and 8 months.
- Pre-kindergarten programme may be Established (5) The Commissioner may establish a programme of pre-kindergarten instruction within the Territorial school system and make regulations respecting the programme.
- Regulations (6) The Commissioner may make regulations governing the establishment of pre-kindergarten and kindergarten programmes other than those mentioned in subsections (1) and (5) and may make contributions toward the operation of such programmes.

General

- Lord's Prayer 114.(1) The Superintendent may, on the recommendation of the school committee, direct that a Territorial school be opened by the recitation of the Lord's Prayer.
- Patriotic Exercises (2) The Superintendent may, on the recommendation of the school committee, direct that a Territorial school be opened by a patriotic exercise.
- Main Language English Other Languages Optional 115.(1) All schools shall be taught in the English language,

- but the Superintendent may permit any class or course to be taught in another language in any school.
- 116.(1) The Commissioner is authorized to enter into and execute, on behalf of the Territory, an agreement with a school authority providing for the education by the authority of children for whose education the Territory is responsible. **Agreements with other School Authorities**
- (2) The Commissioner is authorized to enter into and execute, on behalf of the Territory, an agreement with a school authority providing for the education by the Territory of children for whom the authority is responsible.
- (3) An agreement entered into by the Commissioner pursuant to this section with the Board of a separate school district shall be on terms not less favourable than if the agreement was entered into with the Board of a public school district. **Uniformity of Agreements**
- (4) An agreement entered into by the Commissioner pursuant to this section with the Board of a public school district shall be on terms not less favourable than if the agreement was entered into with the Board of a separate school district.
- (5) The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Territory pursuant to any agreement entered into pursuant to this section. **Power to Carry Out Agreement**
- 117.(1) The Commissioner may make any regulations necessary to carry out the provisions of this Ordinance. **Regulation Power**
- (2) Notwithstanding the generality of subsection (1), the Commissioner may make regulations:
- (a) to prescribe the conditions under which a school shall be established;
 - (b) to prescribe the conditions under which a school shall be closed;
 - (c) to prescribe the duties of any official appointed under this Ordinance;
 - (d) to prescribe the remuneration and the terms and conditions of employment of teachers;
 - (e) to prescribe the duties of any person appointed pursuant to this Ordinance;
 - (f) to prescribe the grades of Certificates of Qualification to be issued to teachers;
 - (g) to prescribe the categories, for salary purposes, to be assigned to the Certificates of Qualification issued to teachers;
 - (h) to establish schools or courses:

- (i) to provide specialized types of education;
- (ii) for children suffering physical or mental disability;
- (i) respecting the tuition fees to be charged for the operation of schools or courses established pursuant to sub-paragraph (h);
- (j) respecting the provision of correspondence courses of instruction and make rules concerning such courses and the fees to be charged in respect of them;
- (k) to determine books and supplies to be supplied, free of charge, or on loan or sale, to teachers or pupils;
- (l) respecting the provision of transportation for pupils or an allowance in lieu thereof;
- (m) respecting the provision of accommodation for pupils or an allowance in lieu thereof;
- (n) respecting examinations and Boards of Examiners;
- (o) respecting the establishment and operation of pre-kindergarten programmes and kindergarten programmes within and without the school system;
- (p) respecting the Teacher Qualification Board;
- (q) for the training of teachers or others; and
- (r) to provide post-secondary courses and make rules governing such courses and the fees to be charged in respect of them.

PART VIII

INTERPRETATION

Inter-
pretation

118.(1)

In this Part

"adjudication" means the determination of a grievance;

"arbitral award" means an award in respect of a dispute;

"arbitration" means the determination of a dispute;

"bargaining agent" means an employee organization that has been certified as a bargaining unit and the certification of which has not been revoked;

"bargaining unit" means a unit determined by the Board to be appropriate for collective bargaining;

"Board" means the Yukon Teachers Staff Relations Board established under section 121;

"Chairman" means the Chairman of the Board;

"collective agreement" means an agreement in writing entered into under this Ordinance between the employer and a bargaining agent containing provisions respecting terms and conditions of employment and related matters and the respective rights and obligations of the employer and the bargaining agent in relation to each other;

"dispute" means a dispute or difference

- (a) arising in connection with the entering into, renewing or revising of a collective agreement in respect of which arbitration may be requested pursuant to section 166(1)
- (b) that may be referred by the Board to arbitration pursuant to section 175;

"employee" means a person employed or appointed by the Commissioner pursuant to section 11 but does not include

- (a) a person appointed pursuant to sections 8 or 9;
- (b) a person to whom the Public Service Ordinances applies;
- (c) a person not ordinarily required to work more than one-third of the normal period for persons doing similar work;
- (d) a person employed on a relief, casual or temporary basis unless he has been so employed for more than ten consecutive and continuous months in any continuous period of twelve months;
- (e) a person temporarily assigned duties similar to a person appointed pursuant to section 8 or 9;

"employee organization" means any organization of employees the purposes of which include the regulation of relations between the employer and his employees;

"employer" means the Commissioner;

"grievance" means a complaint in writing presented in accordance with this Part by an employee on his own behalf or on behalf of himself and one or more other employees, or by a bargaining agent or the employer;

"lockout" includes the closing of a place of employment, a suspension of work by the employer or a refusal by the employer to continue to employ a number of his employees, done to compel the employees to agree to terms or conditions of employment;

"mediator" means a person appointed by the Chairman under section 161 or 162;

"parties" means

- (a) in relation to collective bargaining, consultation, arbitration or a dispute, the employer and a bargaining agent, and
- (b) in relation to a grievance, the employer, the bargaining agent and the employee who presented the grievance or, where subsection 184(3) applies, the personal representative of an employee;

"person employed in a managerial capacity" means

- (a) any person who regularly participates to a significant degree in the formulation and determination of Government policies and proposals;
- (b) any person who is directly involved on behalf of

the employer in the processes provided for in this Part;

- (c) any person who is appointed pursuant to sections 8 or 9 of this Ordinance.

"prescribed" means prescribed by regulations of the Commissioner on the recommendation of the Board;

"strike" includes

- (a) 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, and
- (b) a slowdown of work or other concerted activity on the part of employees that is designed to restrict or limit the work of employees;

"unit" means a group of two or more employees.

Saving for Discharged Employee (2) No person ceases to be an employee within the meaning of this Ordinance by reason only of his discharge or release from employment contrary to this Ordinance.

BASIC FREEDOMS

Employee Rights 119.(1) Every employee is free to join an employee organization of his choice and to participate in its lawful activities.

Employer Rights 120.(1) Nothing in this Ordinance shall be construed to affect the right or authority of the employer:

- (a) to establish, manage and direct an educational system and schools established pursuant to this Ordinance, and to determine the organization of the system or any school established pursuant to section 5;
- (b) to recruit and make appointments pursuant to this Ordinance;
- (c) to promote and transfer employees;
- (d) subject to section 21, to demote employees;
- (e) subject to section 82, to discipline employees;
- (f) subject to section 93, to lay-off employees; and
- (g) to assign duties to employees and subject to the provisions of this Ordinance, to prescribe grades and categories of certificate of qualification to be assigned to those employees.

Right to Contract (2) Nothing in this Ordinance affects the right of the employer to engage private contractors or contract work out for any purpose whatsoever.

YUKON TEACHERS STAFF RELATIONS BOARD

Composition and Operation

Yukon Teachers Staff Relations Board Established 121.(1) There shall be a Board to be called the Yukon Teachers

- Staff Relations Board, consisting of a Chairman, and such other members, not less than five, as the Commissioner considers advisable.
- (2) The Chairman shall be appointed by the Commissioner. **Chairman**
- (3) The members of the Board other than the Chairman shall be appointed by the Commissioner on the recommendation of the Chairman. **Members**
- (4) Prior to making a recommendation pursuant to subsection (3), the Chairman shall consult with the employer and the bargaining agent. **Consultation Before Appointment**
- (5) A member of the Board shall exercise such powers and functions under this Ordinance as may be assigned to him by the Chairman. **Power of Members**
- (6) A member of the Board may be removed from office at any time by the Commissioner upon the recommendation of the Chairman. **Removal of Members**
- 122.(1) A person is not eligible to hold office as a member of the Board if **Eligibility for Membership**
- (a) he is not a Canadian citizen;
- (b) he holds any other office or employment under the employer;
- (c) he is a member of or holds an office or employment under an employee organization that is a bargaining agent; or
- (d) he has attained the age of seventy years.
- (2) Where a person ceases to be a member of the Board for any reason, he may carry out and complete any duties or responsibilities that he would otherwise have had if he had not ceased to be a member in connection with any matter **Former Member may complete Duties**
- (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.
- 123.(1) The Commissioner on the recommendation of the Chairman shall fix **Remuneration and Expenses**
- (a) the remuneration to be paid to the members of the Board and any other person appointed under this Part;
- (b) travelling and living expenses to be paid to the members of the Board or any other person appointed under this Part in connection with the performance of their duties when absent from their ordinary place of residence.
- 124.(1) The Board may meet for the conduct of its business or for any proceeding before the Board at such times and places as it considers necessary or desirable. **Place of Meetings**

- Establishment of Divisions 125.(1) Subject to subsection 132(3), the Chairman may, for the purposes of any application, proceeding or reference, or the hearing or determination of any matter, establish a division of the Board and direct that the powers, duties and functions of the Board, or any of them, be exercised and performed by that division.
- (2) A division of the Board shall consist of one or more members to be designated by the Chairman, but the number so designated shall always be an uneven number.
- Chairman of Division (3) Where a division of the Board consists of more than one member, the Chairman shall designate one member to act as Chairman of the division.
- Majority Decision (4) The Board may sit in two or more divisions simultaneously and a decision of the majority of those present at any meeting of the Board, or a division thereof, is a decision of the Board.
- Appointment of Consultants 126.(1) The Chairman may appoint such experts or consultants as he considers advisable to sit with any division of the Board established to hear and determine any matter within the jurisdiction of the Board.
- Consultants may Attend Meetings (2) An expert or consultant appointed under subsection (1) may attend all meetings of the Board or a division of the Board at which the matter in respect of which he was appointed is heard and determined and advise the Board or a division of the Board thereon but he shall not vote nor make any report or observation thereon except to the members of the Board or a division of the Board.
- Chairman is Chief Executive 127.(1) The Chairman is the chief executive officer of the Board and has supervision and direction of the work of the Board, but he may authorize any of the members to act on his behalf in relation to any matter or class of matters.
- Appointment of Employees (2) The Chairman may appoint such other officers and employees as he deems necessary for the performance of the duties of the Board.
- Remuneration of Officers (3) The Commissioner on the recommendation of the Chairman shall appoint and fix the remuneration of persons having technical or special knowledge to assist the Board in any capacity.

Powers and Duties

- Board makes Rules of Procedure 128. The Board may make rules respecting
- (a) procedure for its hearings;
 - (b) the forms to be used in respect of any proceeding that may come before the Board;

- (c) the certification of employee organizations as bargaining agents;
- (d) the form in which, and the time at which, evidence of
 - (i) membership of employees in an employee organization,
 - (ii) objection by employees to certification of an employee organization, or
 - (iii) 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 or for revocation of certification of a bargaining agent;
- (e) 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 the employee organization to represent them as their bargaining agent;
- (f) the time or times at which the Board may receive an application from an employee organization for certification as the bargaining agent for a bargaining unit where the Board has refused an application from the employee organization for certification in respect of the same or substantially the same unit;
- (g) the conduct of representation votes;
- (h) the form in which and the time of the giving or filing of any notice, undertaking, statement, reference or other document required under this Part;
- (i) the form in which and the time at which evidence and information may be presented to the Board in connection with any proceeding that may come before it;
- (j) the circumstances in which notices to parties or persons shall be deemed to have been given or received by the Board or any party or person;
- (k) the prescribing of any matter or thing that by this Part is to be prescribed; and
- (l) 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 the attainment of the objects of this Part.

129.(1)

The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by this Part, or as may be incidental to the attainment of the objects of this Part.

Exercise of
Powers

Powers of
Board

(2)

Without limiting the generality of the foregoing, the Board may, in relation to any proceeding before it,

- (a) summon witnesses and, subject to section 130, require 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 any matter within its jurisdiction that is before the Board in the proceeding in the same manner as a superior court of record;
- (b) administer oaths and affirmations;
- (c) 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 the Board may refuse to accept any evidence that is not presented in the form and at the time prescribed;
- (d) examine, in accordance with any rules of the Board, such evidence as is submitted to it respecting the membership of any employees in an employee organization seeking certification, objection by employees to the certification of an employee organization or signification by employees that they no longer wish to be represented by a bargaining agent;
- (e) examine the constitution or articles of association, or any document related thereto, of an employee organization that is seeking certification;
- (f) make or cause to be made such examination of records and such inquiries as it deems necessary;
- (g) require the employer to post and keep posted in appropriate places any notice that the Board considers necessary to bring to the attention of any employees any matter or proceeding before the Board;
- (h) subject to such limitations as the Commissioner in the interests of defence or security may prescribe, enter any premises of the employer where work is being or has been done by employees and inspect and view any work, material, machinery, appliances or articles therein and interrogate any person respecting any matter that is before the Board in the proceeding;
- (i) order that
 - (i) a representation vote be taken among employees affected by the proceeding, before or after any hearing the Board may conduct in respect of the proceeding, and
 - (ii) the ballots cast in any vote under subparagraph (i) be sealed in ballot boxes and not counted until the parties to the proceeding have been given an opportunity of being heard by the Board;

- (j) enter upon the employer's premises for the purpose of conducting representation votes during working hours;
- (k) authorize any person to do anything that the Board may do under paragraphs (b) to (h) and paragraph (j) and report to the Board thereon;
- (l) adjourn or postpone the proceeding from time to time;
- (m) except as otherwise provided in this Part, shorten or extend the time for instituting the proceeding or for doing any act, filing any document or presenting any evidence in connection with the proceeding;
- (n) amend or permit the amendment of any document filed in connection with the proceeding; and
- (o) add a party to the proceeding at any stage of the proceeding.

(3) The Board may determine

Jurisdiction of Board

- (a) any application, complaint, question, dispute or matter that may be made or referred to the Board;
- (b) 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 or are retained by any employee notwithstanding such revocation;
- (c) any matter relating to the merger, amalgamation or transfer of jurisdiction between two or more employee organizations or including the rights and privileges that have accrued to or are to be retained by any employee, notwithstanding the merger, amalgamation, or transfer of jurisdiction;
- (d) for the purposes of this Part, any question that may arise in a proceeding, including, without restricting the generality of the foregoing, any question as to whether
 - (i) a person is an employee,
 - (ii) an organization is an employee organization,
 - (iii) a unit of employees is a unit appropriate for collective bargaining,
 - (iv) a collective agreement has been entered into,
 - (v) any person or organization is a party to or bound by a collective agreement or arbitral award,
 - (vi) a collective agreement or arbitral award is in operation, and
 - (vii) in any case of doubt, any occurrence or matter may be said to constitute a grievance.

(4) Subject to section 215, the Board shall give full opportunity to the parties to any proceeding to

Rules of Natural Justice

present their evidence and make their submissions.

When Witness fails to Appear 130.

In any case where

- (a) the Board has summoned a witness and the person summoned fails to appear at a hearing, or
- (b) a person who has appeared as a witness refuses to give oral or written testimony on oath or to produce such documents and things as the Board deems requisite to the full investigation and consideration of a matter that is before the Board,

the Board shall refer the matter to the Court and the Court may make such order in respect of the reference as it deems appropriate.

Orders of Board 131.

Where, under this Part, the Board may make or issue any order or decision, prescribe any term or condition or do any other thing in relation to any person or employee organization, the Board may do so, either generally or in any particular case or class of cases.

Board may Vary Decision 132.(1)

Subject to subsections (2) and (3), the Board may review, rescind, amend, alter or vary any decision, order or award made by it, or may re-hear any application, complaint, reference or other matter before making any decision, order or award in respect thereof, where it is made to appear to the Board that the review, rescission, amendment, alteration or variation is warranted having regard to circumstances that have arisen since the making of the decision, order or award, or of which the Board did not have notice at the time of the making thereof or having regard to such other circumstances as the Board considers relevant, but no application for review, rescission, amendment, alteration or variation may be made without the consent of the Board after the expiration of three months from the day on which the decision, order or award was released to the parties.

Rights After Alteration of Decision (2)

Any rights acquired by virtue of any decision, order or award that is reviewed, rescinded, amended, altered or varied pursuant to subsection (1) shall not be altered or extinguished with effect from a day earlier than the day on which such review, rescission, amendment, alteration or variation was made, unless the Board otherwise directs.

When Decisions of Divisions are Inconsistent (3)

Where it is made to appear to the Chairman that the decisions, orders or awards by two or more divisions of the Board are inconsistent, he may refer such decisions, orders or awards to a review division of the Board to consist of at least three members, one of whom shall be the Chairman and the review division may include any person who was a member of any division that made the decisions, orders or awards so referred and such review division, after affording an opportunity to the parties to the decisions, orders or awards referred

to it to be heard, may rescind, amend, alter or vary any decisions, orders or awards so referred, and the decision of the review division shall be final and binding on all parties.

ACQUISITION AND TERMINATION OF BARGAINING RIGHTS

Application for Certification

- | | | |
|---------|--|-------------------------------------|
| 133.(1) | An employee organization seeking to be certified as the bargaining agent for a unit that the employee organization considers constitutes a unit appropriate for collective bargaining may, subject to this section and any rules made by the Board under paragraph 128(f), apply to the Board for certification as the bargaining agent for the unit. | Application
for
Certification |
| (2) | Subject to subsection (3), an application by an employee organization for certification as the bargaining agent for a unit may be made | When
Application
may be made |
| | <ul style="list-style-type: none"> (a) where no collective agreement or arbitral award relating to the unit is in force and no employee organization has been certified under this Part as the bargaining agent for the unit, at any time; (b) where no collective agreement or arbitral award relating to the unit is in force but another employee organization has been certified under this Part as the bargaining agent for the unit, after the expiration of twelve months from the date of that certification or, with the consent of the Board, at any earlier time; (c) where a collective agreement or arbitral award relating to the unit is in force and is for a term of not more than two years, only after the commencement of the last three months of its operation; and (d) where a collective agreement or arbitral award relating to the unit is in force and is for a term of more than two years, only <ul style="list-style-type: none"> (i) after the commencement of the twenty-second month of its operation and before the commencement of the twenty-fifth month of its operation, (ii) during the three-month period immediately preceding the end of each year that the collective agreement or arbitral award continues to operate after the second year of its operation; or (iii) after the commencement of the last three months of its operation. | |
| (3) | Where a collective agreement referred to in subsection (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 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 (2), or during the three month period immediately preceding the end of each year that the collective agreement continues to operate after the term specified therein.

Under- 134.
taking to
Accompany
Application

Every application for certification under this Part shall be accompanied by an undertaking in prescribed form by a duly authorized officer of the employee organization that, if the employee organization takes a vote of the employees in the bargaining unit that the Board determines to be appropriate to ratify the terms of any collective agreement in respect of the bargaining unit, only employees in the bargaining unit shall be permitted to vote.

Determination of Bargaining Units

Board 135.(1)
Determines
Appropriate
Unit

Where an employee organization applies under section 133 for certification as the bargaining agent for a unit that the employee organization considers appropriate for collective bargaining, the Board shall determine the unit that, in the opinion of the Board, is appropriate for collective bargaining.

(2)

In determining whether a unit constitutes a unit appropriate for collective bargaining, the Board shall take all relevant matters into account.

Certification of Bargaining Agent
and Related Matters

Certific- 136.
ation of
Bargaining
Agent

Where the Board

- (a) has received from an employee organization an application for certification as the bargaining agent for a unit,
- (b) has determined the bargaining unit that constitutes a unit appropriate for collective bargaining, and
- (c) is satisfied that a majority of employees in the bargaining unit wish to have the employee organization represent them as their bargaining agent,

the Board shall, subject to this Part, certify the employee organization making the application as the bargaining agent for the employees in that bargaining unit.

Order for 137.(1)
Representation
Vote

For the purpose of satisfying itself as to whether

employees in a bargaining unit wish to have a particular employee organization represent them as their bargaining agent, the Board may order that a representation vote be taken among the employees in the unit.

(2) Where

(a) an employee organization applies for certification as the bargaining agent for a unit in respect of which no other employee organization is the bargaining agent, and

(b) the Board is satisfied that not less than thirty-five per cent and not more than fifty per cent of the employees in the bargaining unit are members of the employee organization,

the Board shall order that a representation vote be taken among the employees in the bargaining unit.

138.(1)

Where the Board orders that a representation vote be taken among employees in a bargaining unit, the Board shall

Determination
of Voters

(a) determine the employees that are eligible to vote; and

(b) make such arrangements and give such directions as the Board considers necessary 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.

(2)

Where the Board orders that a representation vote be taken on an application by an employee organization for certification as the bargaining agent for a bargaining unit in respect of which no other employee organization is the bargaining agent, the Board shall include on the ballots a choice whereby an employee may indicate that he does not wish to be represented by any employee organization named on the ballots.

When Choice
put on Ballot

(3)

Where

Additional
Representation
Vote

(a) the Board has ordered that a representation vote be taken among employees in a bargaining unit,

(b) the Board has ordered that the employees in the bargaining unit be given a choice among employee organizations, and

(c) the employees in the bargaining unit who cast ballots have not given majority support to one employee organization, but have cast ballots in favour of all employee organizations involved in the representation vote totalling more than fifty per cent of all the ballots cast,

the Board shall order that an additional representation

vote be taken and, in such case, shall include on the ballots a choice whereby an employee may indicate whether he wishes to be represented by the employee organization for which the largest number of votes were cast in the first representation vote.

Determination by Majority of Voters

139.(1)

Subject to subsection (2), the Board shall determine the result of a representation vote on the basis of the ballots cast by the majority of employees voting.

(2)

Where the Board determines that less than thirty-five per cent of the employees eligible to vote in a representation vote have voted, the vote is void.

(3)

A vote by the majority of the employees voting in a representation vote is evidence that a majority of employees in the bargaining unit in respect of which the vote was ordered are of the opinion expressed in the vote of the majority of employees voting.

Employer Dominated Agent not Certifiable

140.(1)

The Board shall not certify an employee organization as bargaining agent for a bargaining unit where it is satisfied that the employee organization

- (a) is barred by its constitution from entering into or administering a collective agreement,
- (b) is so dominated or influenced by the employer that the fitness of the employee organization to represent employees for the purpose of collective bargaining is impaired, or
- (c) denies membership in the organization to any employee or class of employees in a bargaining unit by virtue of a policy or practice that the employee organization applies relating to qualification for membership in the organization.

Political Activity Barred

(2)

The Board shall not certify an employee organization as bargaining agent for a bargaining unit where it is satisfied that the employee organization 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.

Discrimination by Bargaining Agent Barred

(3)

The Board shall not certify an employee organization as bargaining agent for a bargaining unit where it is satisfied that the employee organization discriminates against any employee because of sex, marital status, race, national origin, colour or religion.

Rights of Bargaining Agent

141.(1)

Where an employee organization is certified as the bargaining agent for a bargaining unit

- (a) the employee organization so certified has the exclusive authority in accordance with this Part
 - (i) to bargain collectively and consult with the employer on behalf of the employees in the bargaining unit;

- (ii) to represent the employees in the bargaining unit in the reference of a dispute to arbitration;
 - (iii) to represent an employee in the bargaining unit in the presentation of a grievance or the reference thereof to the Board; and
 - (iv) with the consent of the employee to represent him in any proceedings pursuant to sections 82 or 84.
- (b) the certification of any employee organization that was previously certified as the bargaining agent for any of the employees in the bargaining unit is deemed to be revoked to the extent that the certificate relates to those employees; and
- (c) the employee organization so certified is deemed to be substituted as a party to any collective agreement or arbitral award that affects any employees in the bargaining unit, to the extent that the agreement or award relates to those employees, in the place of the bargaining agent named in the agreement or award or any successor thereto.
- (2) Where, pursuant to paragraph (1)(c), an employee organization is deemed to be substituted as a party to a collective agreement or arbitral award, either party to the agreement or award may, notwithstanding anything contained in the agreement or award, terminate the agreement or award, insofar as it applies to the employees in the bargaining unit, upon three months notice given within one month from certification of the employee organization. Substitution of Employer Organization
- (3) In any case where paragraph (1)(b) or (c) applies, any question as to the right or duty of the previous bargaining agent or the new bargaining agent arising by reason of the application of either paragraph shall, on application by the employer or the previous or new bargaining agent, be determined by the Board. Rights of Substitution
- 142.(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 bargaining unit, the Board shall, on application by the employer or any employee organization affected, determine the question. Determination of Residual Rights
- 143.(1) Subject to subsection (3), an employee who is represented by a bargaining agent may authorize the employer in writing, at any time after the date on which the bargaining agent was certified for the bargaining unit, to deduct from his pay the amount of the regular monthly membership dues payable by him to the bargaining agent and to remit that amount to the bargaining agent, and the employer shall deduct and remit that amount in accordance with the authorization. Dues may be Deducted from Pay

- (2) Subject to subsection (3), an employee may, by notice in writing to the employer, revoke an authorization given by him pursuant to subsection (1), and that revocation shall have effect thirty days from the date upon which it is received by the employer.
- Rand Formally Permitted (3) Subsections (1) and (2) do not apply to an employee who is bound by a collective agreement entered into between the employer and a bargaining agent that contains a provision requiring the employer to deduct from the pay of the employee the membership dues or amounts of money in lieu of such dues payable by the employee to the bargaining agent.
- Deductions not be be used for Political Purpose (4) No moneys deducted from an employee's salary for payment to an employee organization shall be used directly or indirectly on behalf of any political party or on behalf of any candidate for political office.
- Revocation of Certification and Related Matters
- Application 144.(1) for Revocation of Certification (1) Where an employee organization has been certified as the bargaining agent for a bargaining unit, any employee who claims to represent a majority of the employees in the bargaining unit may, subject to subsection (2), apply to the Board for an order revoking the certification of that employee organization for the bargaining unit.
- When Application may be Made (2) An application pursuant to subsection (1) may be made in respect of a bargaining agent for a bargaining unit only during the period in which an application for certification of an employee organization may be made pursuant to subsections 133(2) and (3).
- Decision by Majority Vote (3) Where, upon receipt of an application under subsection (1) in respect of a bargaining agent for a bargaining unit, the Board is satisfied, after such inquiry by way of a representation vote or otherwise as the Board considers appropriate in the circumstances, that a majority of the employees in the bargaining unit no longer wish to have the bargaining agent represent them, the Board shall, by order, revoke the certification of the employee organization as the bargaining agent for the bargaining unit.
- Saving (4) Where no collective agreement is in force that applies to a bargaining unit, no order shall be made pursuant to subsection (3) in relation to the bargaining unit unless the Board is satisfied that the bargaining agent has failed to make a reasonable effort to enter into a collective agreement in relation to the bargaining unit.

- 145.(1) Where a bargaining agent advises the Board in writing 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, the Board shall, by order, revoke the certification of the employee organization as the bargaining agent for the bargaining unit. **When Bargaining Agent Wishes to Act**
- (2) Where the Board, upon application, 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 140, because of circumstances that arose after certification, the Board shall, by order, revoke the certification of the employee organization as the bargaining agent for the bargaining unit. **Breach of Prohibition**
- 146.(1) Where an employee organization has been certified as the bargaining agent for a bargaining unit **Effective Revocation After Fraud**
- (a) any employee in the bargaining unit,
- (b) the employer, or
- (c) any employee organization that appeared before the Board in the certification proceeding,
- who alleges that the certification was obtained by the fraud of the employee organization so certified; may apply to the Board, at any time, for revocation of the certification.
- (2) Where the Board, upon receipt of an application under subsection (1) in respect of a bargaining agent for a bargaining unit, is satisfied that the evidence in support of the application **Limitations on Fresh Evidence**
- (a) was not and could not, by the exercise of reasonable diligence, have been presented to it in the certification proceeding, and
- (b) is such that the Board would have refused to certify the employee organization as the bargaining agent for the bargaining unit if the evidence has been presented to it in the certification proceeding,
- the Board shall, by order, revoke the certification of the employee organization as the bargaining agent for the bargaining unit.
- (3) An employee organization the certification of which is revoked pursuant to subsection (2) is not entitled to claim any right or privilege flowing from such certification, and any collective agreement or arbitral award applying to the bargaining unit for which it was certified, to which such employee organization was a party, is void. **Loss of Rights**
- 147.(1) Where at any time the Board, upon application, is **Revocation for Breach of Undertaking**

satisfied that an employee organization has failed to comply with the undertaking required by section 134, the Board may, by order, revoke the certification of the employee organization as bargaining agent for the bargaining unit.

Collective Agreement Terminates 148.(1)

Where the Board makes an order under sections 144, 145, or 147 revoking the certification of an employee organization, any collective agreement or arbitral award between the employee organization and the employer that applies to the bargaining unit ceases to have effect, except where another employee organization is substituted as a party to the agreement or award upon the revocation of such certification.

Board Determines Rights 149.(1)

Where the certification of a bargaining agent for a bargaining unit is revoked by the Board pursuant to section 144, 145 or 147, any question as to any right or duty of that bargaining agent or of any new bargaining agent replacing it shall, on application by the employer, or either bargaining agent be determined by the Board.

Employee Rights Recognized (2)

Where the certification of a bargaining agent for a bargaining unit is revoked by the Board pursuant to sections 144, 145, 146 or 147 and as a result thereof a collective agreement or arbitral award 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, direct the manner in which any right acquired by, or determined by the Board to have accrued to, an employee that is affected by the revocation is to be recognized and given effect to.

Successor Rights and Related Matters

Board Determines Rights of Employee Organizations 150.(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 Part 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 the employer or any employee organization affected, shall examine the question and may determine what rights, privileges and duties if any have been acquired or are retained, as the case may be, by that employee organization.

Representation Votes may be Taken (2)

Before determining, pursuant to subsection (1), what rights, privileges and duties of an employee organization have been acquired or are retained, the Board may direct that such representation votes be taken as it considers necessary.

- 151.(1) Where the Board has certified an employee organization as the bargaining agent for employees in more than one bargaining unit, the Board may, upon the joint application of the employer and the bargaining agent, determine that the unit appropriate for collective bargaining includes employees in more than one of the bargaining units, and, if it is satisfied that the processes of bargaining and consultation between the parties under this Part will thereby be improved, may certify the employee organization as the bargaining agent for such unit (hereinafter in this section referred to as the "merged unit"), and shall amend, to the extent the Board considers necessary, any certificates previously issued to the employee organization so as to comprise in one certificate two or more of the bargaining units for which it was previously certified.
- Board may Determine Units Appropriate for Bargaining
- (2) Every application under subsection (1) shall be accompanied by a statement specifying the terms and conditions of employment that the parties agree shall apply to the employees in the merged unit.
- Agreed Statement
- (3) Subject to subsections (4) and (5), where the Board certifies an employee organization as bargaining agent for a merged unit, the statement referred to in subsection (2) shall be deemed to be the collective agreement applicable to the employees in the merged unit and shall be substituted for any collective agreement or arbitral award that was applicable to the employees in the respective bargaining units for which the employee organization was certified as bargaining agent at the time of the certification of the organization as bargaining agent for the merged unit.
- Agreed Statement to Replace Collective Agreement
- (4) At the time of the certification of an employee organization as bargaining agent for a merged unit, the Board shall determine when notice to bargain may be given by either party for the renewal of the collective agreement deemed under subsection (3) to be applicable to the employees in the merged unit.
- Board Determines When Notice to Bargain may be
- (5) Where subsection (3) applies, the Board shall, on application to it by or on behalf of any employee, direct the manner in which any right acquired by, or determined by the Board to have accrued to, an employee under any collective agreement or arbitral award applicable to him prior to the certification of the bargaining agent for the merged unit is to be recognized and given effect to.
- Board Determines Employees' Rights
- 152.(1) Where a bargaining agent has been certified for a bargaining unit and the employer temporarily assigns or proposes to temporarily assign to a person in that bargaining unit duties and responsibilities that, in the opinion of the employer, would identify him as a person employed in a managerial capacity, the employer shall file with the Board and serve on the bargaining
- Employee Temporarily Assigned Management Duties may Remain in Bargaining Unit

agent in the prescribed form, a notice of such assignment or proposed assignment and the person shall be deemed to be identified as a person employed in a managerial capacity but the employee may continue to be a member of the bargaining unit upon giving an undertaking that he will not hold office in the organization and that he will not participate in or vote on any matter that may be determined by collective bargaining, arbitration or adjudication under this Part.

Board to Decide

- (2) Where a bargaining agent, after the receipt by it of the notice referred to in subsection (1), files with the Board within the prescribed time an objection to the notice, the Board shall determine whether, by reason of the duties assigned or proposed to be assigned to the person named in the notice, he is or would be a person employed in a managerial capacity.

Employee Reverts

- (3) Where a person identified under this section as a person employed in a managerial capacity ceases to perform the duties and responsibilities in respect of which he was identified, the employer shall give notice in writing forthwith to the bargaining agent and such person shall be deemed to be included in the appropriate bargaining unit upon his ceasing to perform such duties and responsibilities.

COLLECTIVE BARGAINING

Obligation to Bargain Collectively

Bargaining Agent or Employer may Require Collective Bargaining

153.(1)

Where the Board has certified a bargaining agent for a bargaining unit and no collective agreement or arbitral award binding on the employees in the bargaining unit is in force

- (a) the bargaining agent may, on behalf of the employees in the bargaining unit, by notice, require the employer to commence collective bargaining, or
- (b) the employer may, by notice, require the bargaining agent to commence collective bargaining,

for the purpose of entering into a collective agreement.

- (2) Either party to a collective agreement or arbitral award may, within the period of three months immediately preceding the date of expiration of the term of the collective agreement or arbitral award, or within such longer period as may be provided for in the collective agreement or by agreement of the parties, by notice, require the other party to the collective agreement or arbitral award to commence collective bargaining for the purpose of renewing or revising the collective agreement or entering into a new collective agreement.

- 154.(1) Where notice to bargain collectively has been given under this Part, the bargaining agent and the officers designated to represent the employer, without delay, but in any case within twenty days after the notice was given unless the parties otherwise agree, shall
- (a) meet and commence to bargain collectively in good faith; and
- (b) make every reasonable effort to enter into a collective agreement.
- (2) Where notice to bargain collectively has been given under this Part, the employer shall not alter any term or condition of employment applicable to the employees in the bargaining unit in respect of which the notice was given, or any right or privilege of the bargaining agent, that may be embodied in a collective agreement, except with the consent of the bargaining agent until such time as
- (a) a collective agreement has been entered into by the parties and no request for arbitration has been made in the manner and within the time prescribed therefor by this Part, or
- (b) a request for arbitration has been made in accordance with this Part and a collective agreement has been entered into or an arbitral award has been rendered in respect thereof.
- (3) Where the employer may lawfully make an alteration in the terms or conditions of employment applicable to employees in one bargaining unit but the alteration would be prohibited by subsection (1) with respect to the employees in another bargaining unit, the Board may, notwithstanding subsection (1), on application by either party, consent to the alteration of such terms or conditions of employment for employees in the unit in respect of which notice was given under that subsection to such extent and under such conditions as the Board considers appropriate.

**Bargaining to
Commence within
20 Days**

**Conditions of
Employment not
to be Altered**

Saving

Authority to Enter into Collective Agreements

- 155.(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.

**Commissioner may
Execute
Collective
Agreement**

Content of Collective Agreement

- 156.(1) Subject to subsection (2), no collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or

**Matters
Excluded from
Collective
Agreement**

condition of employment or the establishment of any new term or condition of employment,

- (a) the alteration, elimination or establishment of which 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 established pursuant to any Ordinance except subsection 117(2)(d) of this Ordinance.

Further Exclusions

- (2) No collective agreement shall contain provisions respecting the standards, procedures or processes governing the appointment, promotion, demotion, lay-off, transfer or work performance evaluation of employees or, subject to section 184, any provision respecting the grievance process.

Strike Prohibited

- 157.(1) Every collective agreement shall provide that, during the term of the agreement, the bargaining agent shall not declare or authorize, and the officers or representatives of the bargaining agent shall not counsel or procure the declaration or authorization of, a strike of employees or the participation of employees in a strike of employees in the bargaining unit to which the collective agreement relates.

Lockout Prohibited

- (2) Every collective agreement shall provide that, during the term of the agreement, no person employed in a managerial capacity, whether or not he is acting on behalf of the employer, shall cause, counsel or procure a lockout of any employees in the bargaining unit to which the agreement relates.
- (3) Where a collective agreement entered into after the coming into force of this Ordinance does not contain a provision referred to in subsection (1) or (2), it may be added to the agreement at any time by the Board upon the application of either party.
- (4) Where no collective agreement applying to a bargaining unit is in force and the parties are bound by an arbitral award in respect of the bargaining unit, the Board may, upon the application of either party to the award, direct that the award be amended by adding thereto a provision referred to in subsection (1) or (2).

Implementation, Duration and Effect of Collective Agreements

Time for Implementation of Collective Agreement

- 158.(1) The provisions of a collective agreement shall, subject to the appropriation 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 for implementation is specified in the collective agreement, within that period; and
 - (b) where no period for implementation is so specified,
 - (i) within a period of ninety days from the date of its execution, or
 - (ii) within such longer period as may be agreed upon by the parties or as may, on application by either party to the agreement, appear reasonable to the Board.
- 159.(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 in which the agreement is executed.
- (2) Where a collective agreement contains no provision as to its term, or is for a term of less than one year, 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 this Part prohibits the parties to a collective agreement from agreeing to a revision of any provision of the collective agreement other than a provision relating to the term of the collective agreement.
- (4) The Board may, upon application made by both parties to a collective agreement, authorize them to terminate the agreement before it ceases to operate in accordance with the provisions of the agreement.
- 160.(1) A collective agreement is, subject to and for the purposes of this Ordinance, binding on the employer, on the bargaining agent 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 159(1).
- Provisions Applicable to Resolution of Disputes
- 161.(1) Where the employer or a bargaining agent advises the Chairman 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 mediator in reaching agreement, the Chairman may appoint a mediator who shall, forthwith after his appointment, confer with the parties and endeavour to assist them in reaching agreement.

Effective Commencement of Collective Agreement

Provisions of Collective Agreement may be Revised

Collective Agreement may be Terminated by Consent

Collective Agreement Binding on Employer, Bargaining Agent and Employees

Chairman may Appoint Mediator at Request of Party

Chairman may 162.(1)
Appoint
Mediator after
Consultation
with Parties

In any case not provided for under section 161, the Chairman may, after consultation with the parties, appoint a mediator where it appears to him that the appointment of such an officer may serve the purpose of assisting the parties in reaching agreement in any dispute or on any difference and that, without the appointment of such an officer, the parties are unlikely to reach agreement or resolve the difference.

Mediator to 163.(1)
Report in
14 Days

Where a mediator has been appointed under sections 161 or 162, he shall, within fourteen days from the date or his appointment, or within such longer period as the Chairman may allow, report to the Chairman as to whether or not he has succeeded in assisting the parties in entering into or revising a collective agreement.

Time may 164.(1)
be Extended

Where a request for arbitration under section 166 has been made and a mediator has been appointed pursuant to sections 161 or 162, the mediator shall, within

- (a) fourteen days from the date of his appointment, or
- (b) such longer period not exceeding an additional fourteen days as the Chairman, after consultation with the parties, may allow or as may be agreed upon by the parties,

report to the Chairman as to whether or not he has succeeded in assisting the parties in entering into or revising a collective agreement.

Compulsory 165.(1)
Arbitration

Where the employer and the bargaining agent for a bargaining unit have bargained collectively with a view to concluding a collective agreement but have failed to reach agreement, the matters in dispute shall be referred to arbitration and sections 166 to 182 apply to the resolution of the dispute.

Arbitration

Notice to 166.(1)
Arbitrate

Where the parties to collective bargaining have bargained collectively with a view to concluding a collective agreement but have been unable to reach agreement on any term or condition of employment of employees in the relevant bargaining unit that may be embodied in an arbitral award, either party may, by notice in writing to the Board 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.

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| (2) | Where arbitration is requested by notice under subsection (1), the party making the request | Contents of Notice |
| | (a) shall specify in the notice the terms and conditions of employment in respect of which it requests arbitration and annex to the notice a copy of any collective agreement entered into by the parties, and | |
| | (b) may annex to the notice its proposals concerning the award to be made by the arbitrator. | |
| (3) | Where arbitration is requested by notice under subsection (1) and no collective agreement has been entered into by the parties, the party making the request shall annex to the notice a statement of any terms or conditions of employment that have been conditionally agreed to by the parties. | Agreed Terms Annexed to Notice |
| 167.(1) | Where notice under section 166 is received by the Board from any party requesting arbitration, the Board shall forthwith send a copy of the notice to the other party, who shall within seven days after receipt thereof advise the Board, by notice in writing, of any matter, additional to the matters specified in the notice under section 166, 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. | Amendments to Notice |
| (2) | Where arbitration of any matter is requested by notice under subsection (1), the party making the request may annex to the notice its proposals concerning the award to be made by the arbitrator in respect thereof. | Proposals may be Annexed |
| 168.(1) | Where either party has not annexed to a notice under section 166 or 167 its proposals concerning the award to be made by the arbitrator, the Board may, by order, direct a party to file such proposals, upon such terms and conditions as it considers advisable and, if the party fails to comply with the order, the arbitrator may refuse to permit that party to adduce evidence or make representations in respect of the matter to which the order relates. | Board may Direct Proposals to be Filed |
| (2) | Where an order is made under subsection (1), the Board may extend the time for giving of a notice under subsection 167(1). | Time may be Extended |
| (3) | Where arbitration is requested by notice under subsection 166(1), either party may, with the consent of the Board, on such conditions as the Board considers advisable, amend the notice under subsection (1) or the notice under subsection 167(1) by adding thereto any term or condition of employment that | Notices may be Amended |
| | (a) may be embodied in an arbitral award, | |
| | (b) was the subject of negotiation between the parties during the period before arbitration was requested, and | |

- (c) was omitted from the notice.
- Chairman to Appoint Arbitrator** 169.(1) Where the employer or the bargaining agent or both have requested arbitration pursuant to sections 166 or 175, the Chairman shall, except as provided by sections 161 or 162, within fourteen days
- (a) appoint an arbitrator who shall immediately proceed to a consideration of the matter; and
 - (b) send to the arbitrator a copy of the notice referred to in subsection 166(2).
- Eligibility for Appointment**
- (2) A person is not eligible to act as an arbitrator if he would not be eligible to be a member of the Board pursuant to subsection 122(1).
 - (3) No person shall act as an arbitrator in respect of any matter if he has at any time since a day six months before the day of his selection acted in respect of any matter concerning employer-employee relations as solicitor, counsel or agent of the employer or of any employee organization that has an interest in the matter in respect of which he was selected as an arbitrator.
- Powers of Arbitrator**
- (4) The arbitrator has all the powers of the Board set out in paragraphs 129(2)(a), (b), (c), (f) and (h) and, in addition, may authorize any person to exercise any of the powers of the arbitrator set out in paragraphs 129(2)(b), (c) and (f) and report to the arbitrator thereon.
- Consultation before Appointment**
- (5) Prior to making an appointment pursuant to subsection (1), the Chairman shall consult with the employer and the bargaining agent.
- Failure to Bargain in Good Faith** 170.(1) Where arbitration is requested and it is alleged that the party making the request has not bargained in good faith, the Board shall, on application by the other party to the dispute, examine and inquire into the allegation and, if the Board is satisfied that the party requesting arbitration has not bargained in good faith, it may postpone the hearing of the request and direct the parties to continue to bargain for such further period as it considers appropriate in the circumstances.
- Each Party to Select Adviser** 171.(1)
- (1) In respect of a proceeding on a request for arbitration under section 166, each of the parties shall, within the time prescribed, select one adviser to sit with the arbitrator for the hearing and determination of the dispute.
 - (2) If either of the parties fails to notify the Board within the time prescribed the name of the adviser it has selected under subsection (1), the Chairman shall select an adviser and the person so selected shall be deemed to have been selected by that party.

- (3) The provisions of subsections 122(1) and 126(2) apply, with such modifications as the circumstances require, in relation to the qualification and functions of persons to act as advisers under this section. **Persons Eligible**
- (4) No person shall act as an adviser in respect of any matter if he has at any time since a day six months before the day of his selection acted in respect of any matter concerning employer-employee relations as solicitor, counsel or agent of the employer or of any employee organization that has an interest in the matter in respect of which he was selected as an adviser.
- 172.(1) Subject to section 174, the matters in dispute specified in the notice under section 166, in any notice under section 167 and in any amendment of such notice under subsection 168(3) constitute the terms of reference 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. **Arbitrator to Render Award**
- (2) Where, at any time before an arbitral award is rendered in respect of the matters in dispute, the parties reach agreement on any such matter and enter into a collective agreement in respect thereof, the matters in dispute 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. **Award not to Include Agreed Matters**
- 173.(1) In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute, the arbitrator shall consider **Matters for Consideration**
- (a) the need for qualified employees;
 - (b) the conditions of employment in similar occupations outside government service, including such geographic 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, category or grade levels and as between other occupations in the government 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 it appears to be relevant to the matter in dispute.

Contents of Award	174.(1)	<p>Subject to this section, an arbitral award may deal with</p> <ul style="list-style-type: none"> (a) compensation, including rates of pay and procedures relating to the administration thereof, and (b) hours of work, leave entitlements, and other terms and conditions of employment directly related thereto.
Matters Excluded	(2)	<p>No arbitral award shall deal with any term or condition of employment, the inclusion of which in a collective agreement is prohibited by section 156(1), or standards, procedures or processes governing the appointment, promotion, demotion, transfer, lay-off or work performance evaluation of employees or with the release or discipline of employees or the assignment of duties of employees or the grades or categories of certificates of qualification to be assigned to those employees 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.</p>
	(3)	<p>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.</p>
Joint Request for Special Arbitration	175.(1)	<p>Notwithstanding anything in this Part, the parties may jointly request the Board to refer to arbitration any matter and an arbitral award made pursuant to such request shall be binding on the parties in accordance with any agreement in respect of the request.</p>
Form of Award	176.(1)	<p>An arbitral award shall, wherever possible, be made in such form</p> <ul style="list-style-type: none"> (a) as will be susceptible of being read and interpreted with, or 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.
Award Binding on Employer, Bargaining Agent and Employees	177.(1)	<p>An arbitral award is, subject to and for the purposes of this Part, 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,</p>

effective on and from the day on which the award is rendered or such later day as the arbitrator may determine.

- (2) 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.

Award may be Retroactive
- (3) Where the arbitrator determines that a provision of an arbitral award shall be retroactively applied, that provision shall, for the retroactive period specified in the arbitral award, displace any term or condition in a previous collective agreement or arbitral award with which it is in conflict.
- 178.(1) The arbitrator may, 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, it may take into account

Arbitrator may Determine Duration of Award

 - (a) where a collective agreement applicable to the bargaining unit is in effect or has been entered into but is not yet in effect, the term of that collective agreement; and
 - (b) where no collective agreement applying to the bargaining unit has been entered into
 - (i) the term of any previous collective agreement that applied to the bargaining unit, or
 - (ii) the term of any other collective agreement that to the arbitrator appears relevant,
 but where the arbitrator does not determine and specify the term of an arbitral award, the term applicable shall be the term referred to in paragraph (a).
- (2) No arbitral award, in the absence of the application thereto of any criterion referred to in paragraph (1)(a) or (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.

Limits of Duration
- (3) The Board may, upon application made by both parties to an arbitral award, terminate the award before it ceases to have effect according to its terms.

Application for Termination
- 179.(1) The provisions of an arbitral award shall, subject to the appropriation 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 may be agreed upon by the parties or as may, on application by either party, appear reasonable to the Board.

Award to be Implemented Within 90 Days

**Referral
Back to
Arbitrator** 180.(1) Where a statement has been annexed to a notice pursuant to subsection 166(3) and the parties subsequently are unable to reach agreement on terms or conditions of employment that were conditionally agreed to by the parties, either party may, within thirty days after receipt by it of the award of the arbitrator, or within such longer period as may be agreed upon by the parties, refer back to the arbitrator any term or condition in the statement that may be dealt with in an arbitral award and the arbitrator shall thereupon deal with such term or condition in the manner provided in section 172.

**Revision by
Agreement** 181.(1) The parties to an arbitral award may agree to a revision of any provision of such award other than a provision relating to its duration.

Grievances

**Employee
may
Grieve** 182.(1) Subject to subsection (2) and sections 82 to 87, 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, 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 (ii),

he is entitled, subject to subsection (2) and section 87, to present the grievance at each of the levels, up to and including the final level, in the grievance process provided by this Ordinance.

**Matters
Requiring
Approval of
Bargaining
Agent** (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.

**Personal
Representative
may Continue
Grievance** (3) For the purposes of any provision of this Ordinance respecting grievances, where a grievance was submitted prior to the death of an employee, a reference to an employee includes the personal representative of a deceased employee or a former employee.

**Chairman to
Appoint
Adjudicators
After
Consultation** 183.(1) The Chairman shall, after consultation with the employer and the bargaining agent, appoint such

persons to be called adjudicators as may be required to hear and adjudicate upon grievances referred to adjudication under this Ordinance.

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| (2) | A person is not eligible to act as an adjudicator if he would not be eligible to be a member of the Board pursuant to subsection 122(1). | Eligibility
for Appointment |
| (3) | No person shall act as an adjudicator in respect of any matter if he has at any time since a day six months before the day of his selection acted in respect of any matter concerning employer-employee relations as solicitor, counsel or agent of the employer or of any employee organization that has an interest in the matter in respect of which he was selected as an adjudicator. | |
| (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 <ul style="list-style-type: none"> (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. | Powers of
Adjudicator |
| (5) | Where a grievance is referred to adjudication, the adjudicator shall give both parties to the grievance an opportunity of being heard. | Natural
Justice |
| (6) | After considering the grievance, the adjudicator shall render a decision thereon and <ul style="list-style-type: none"> (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. | Adjudicator to
Decide and
Notify Parties |
| 184.(1) | Where the parties have provided in a collective agreement for a bargaining unit that the bargaining agent may present on behalf of an employee in the bargaining unit a grievance with respect to the interpretation or application in respect of the employee of a provision of a collective agreement or arbitral award, the bargaining agent shall not be entitled to present such a grievance on behalf of the employee if the employee objects thereto in prescribed manner and within the prescribed time. | Consent of
Employee
Required |

- Employee Organization to Represent Own Members** 185.(1) 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.
- Grievance by Employer or Bargaining Agent** 186.(1) Where the employer and a bargaining agent have executed a collective agreement or are bound by an arbitral award and
- (a) the employer or the bargaining agent seeks to enforce an obligation that is alleged to arise out of the 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,
- the employer or the bargaining agent may, in prescribed manner, present a grievance to the bargaining agent or the employer.
- Representation of Dismissed Employee** 187.(1) Where an employee presents an appeal against his suspension or dismissal to the Superintendent pursuant to section 83 or to an adjudicator pursuant to section 87, the employee may, with his consent be represented by the bargaining agent.
- Procedures on Dismissal Grievance** (2) Any grievance with respect to an employee's suspension or dismissal shall be in accordance with the administrative procedures in sections 82 to 91.
- Referral of Grievance to Adjudication** 188.(1) Subject to subsection (3), where an employee has presented a grievance up to and including the final level in the grievance process or an appeal under section 87
- (a) with respect of the interpretation or application in respect of him of a provision of a collective agreement or arbitral award, or
 - (b) has appealed his dismissal or suspension pursuant to section 86
- and his grievance or appeal has not been dealt with to his satisfaction, he may refer his grievance to adjudication.
- Approval of Bargaining Agent Required** (2) Where a grievance that may be referred by an employee to adjudication is a grievance relating to the interpretation or application of a provision of a collective agreement or arbitral award, the employee is not entitled to refer the grievance to adjudication unless the bargaining agent for the bargaining unit in which the employee is included signifies in prescribed manner its approval of the reference of the grievance to adjudication and its willingness to represent the employee in the adjudication proceeding.

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| (3) | An employee on probation shall not be entitled to refer to adjudication a grievance in respect of his rejection during his probationary period. | Adjudication
Not Available
to Probationers |
| 189.(1) | Section 188 applies, with such modifications as the circumstances require, to grievances presented by a bargaining agent on behalf of an employee in accordance with section 184. | Consent of
Employee
Required |
| 190.(1) | Except with the consent of the Board, no grievance shall be referred to adjudication and the adjudicator shall not hear, or render a decision on, a grievance until all procedures prescribed under this Ordinance for the presentation of the grievance have been complied with. | Adjudication
Only Available
after Exhaustion
of Other
Procedures |
| (2) | The adjudicator shall not render any decision in respect of any grievance, the effect of which would be to require the amendment of a collective agreement or an arbitral award. | Limitation on
Jurisdiction |
| (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 188 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. | |
| 191.(1) | Where either party to a collective agreement or arbitral award has given notice under subsection 153(2), a grievance in respect of any term or condition of employment of an employee or any right or privilege of the bargaining agent that was embodied in the collective agreement or arbitral award the alteration of which is prohibited by subsection 154(2) may be referred to adjudication and determined by the adjudicator during the period for which alteration is prohibited by subsection 154(2) as if the agreement or arbitral award remained in force. | Adjudication
Available
Notwithstanding
Delivery of
Notice to Bar-
gain |
| (2) | Where a grievance is presented within the time prescribed by the Board for the presentation of grievances, subsection (1) shall apply notwithstanding that the grievance is presented at the first level of the grievance process after the expiration of the period during which alteration is prohibited by subsection 154(2). | |
| 192.(1) | Where a grievance described in paragraph 188(1)(b) is referred to adjudication, the adjudicator may determine the remedial action if any, that, in his opinion, is appropriate in the circumstances, and the adjudicator may direct that such action be taken. | Adjudicator
to Decide
Penalty |

- Adjudicator may Substitute Penalty** 193.(1) Where a grievance described in paragraph 188(1)(b) is referred to adjudication and the adjudicator determines that an employee has been discharged or disciplined by the employer for cause, the adjudicator has power to substitute for the discharge, suspension or discipline such other penalty as to the adjudicator seems just and reasonable in the circumstances.
- Presentation of Grievance** 194.(1) Where the employer or the bargaining agent has presented a grievance pursuant to section 186 and the grievance has not been dealt with to its satisfaction, it may refer the grievance to adjudication.
- Declaratory Judgments** (2) Where the employer and the bargaining agent have executed a collective agreement or are bound by an arbitral award, the employer or the bargaining agent may refer to adjudication any question as to the interpretation or application in respect of employees in the bargaining unit of the collective agreement or arbitral award and the adjudicator may, if he considers it appropriate, make a declaratory determination of such question.
- Employer to Carry Out Decision** 195.(1) 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.
- Employee and Bargaining Agent to Carry Out Decision** (2) 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.
- Procedural Regulations** 196.(1) The Commissioner may on the recommendation of the Board make regulations in relation to the procedure for presenting grievances, including, without limiting the generality of the foregoing, 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 time within which the reply to a grievance may be given at any level in the grievance process including the final level; and
 - (e) the circumstances in which any level below the final level in the grievance process may be eliminated.
- Procedural Regulations to Prevail Over Collective Agreement** (2) Any regulations made by the Commissioner under subsection (1) in relation to the procedure for presentation of grievances shall apply in respect of employees in the

bargaining unit for which a bargaining agent has been certified by the Board notwithstanding 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.

PROHIBITIONS AND ENFORCEMENT

Strikes and Lockouts

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| 197.(1) | No employee shall participate in a strike. | Strike Action Prohibited |
| 198.(1) | No person shall do any act if he knows or ought to know that, as a reasonable consequence of the act, another person or persons will engage in an unlawful strike or an unlawful lockout. | Incitement to Strike |
| 199.(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 would be to involve the participation of an employee in a strike in contravention of section 197 or 198. | Prohibition of Strikes by Employee Organization and its Officers |
| 200.(1) | No person employed in a managerial capacity, whether or not he is acting on behalf of the employer, shall cause a lockout of any employee or counsel or procure a lockout of any employee. | Lockout Prohibited |

Declarations Relating to Strikes and Lockouts

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| 201.(1) | Where the employer alleges that an employee organization has declared or authorized a strike, or that employees have participated in, are participating in or likely to participate in a strike, the effect of which was, is or would be to involve the participation of an employee in a strike in contravention of section 197, the employer may apply to the Board for a declaration that the strike was, is or would be unlawful and the Board may make such a declaration. | Board may Declare Strike Unlawful |
| 202.(1) | Where a bargaining agent alleges that a person employed in a managerial capacity has caused or authorized a lockout of employees in contravention of section 200, the bargaining agent may apply to the Board for a declaration that the lockout was, is or would be unlawful and the Board may make such a declaration. | Board may Declare Lockout Unlawful |

Prohibited Practices

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| 203.(1) | No person who is employed in a managerial capacity, whether or not he is acting on behalf of the employer, shall participate in or interfere with the formation | Interference by Employer Prohibited |
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or administration of an employee organization or the representation of employees by such an organization.

**Discrimination (2)
by Employer
Prohibited**

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
 - (i) is a member of an employee organization;
 - (ii) is engaged in the formation of an employee organization;
 - (iii) is engaged in persuading employees to apply to the Board for a declaration that an employee organization certified as bargaining agent for a bargaining unit in which he is included no longer represents a majority of the employees included therein;
 - (iv) has testified or otherwise participated or may testify or otherwise participate in a proceeding under this Part;
 - (v) has made or is about to make a disclosure that he may be required to make in a proceeding under this Part;
 - (vi) has made or is about to make an application or a complaint or has presented or is about to present a grievance or refer a grievance to adjudication under this Part, or
 - (vii) was or is exercising any other right or freedom under this Part;
- (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 restrains, or has the effect of restraining, an employee or a person seeking employment from becoming a member of an employee organization or exercising any right or freedom conferred upon him by this Part;
- (c) seek, by intimidation, threat of dismissal or any other kind of threat, by the imposition of a pecuniary or other penalty or by any other means to compel a person
 - (i) to become, refrain from becoming or, except as provided in a collective agreement, to cease or continue to be a member of an employee organization;
 - (ii) other than a person to whom subsection 152(1) applies, to refrain from becoming an officer or representative of an employee organization, engaging in the formation of an employee organization, or persuading employees to apply to the Board for a declaration that an employee organization certified as bargaining agent for a bargaining unit in which he is included no longer represents a majority of the employees included therein;

- (iii) to refrain from testifying or otherwise participating in a proceeding under this Part;
- (iv) to refrain from making a disclosure that he may be required to make in a proceeding under this Part;
- (v) to refrain from making an application or complaint or presenting a grievance or referring a grievance to adjudication under this Part; or
- (vi) to refrain from exercising any other right or freedom under this Part.

- (3) No employee organization and no officer, representative, or person acting on behalf of an employee organization shall
- Discrimination
by Employee
Organization
Prohibited**
- (a) except with the consent of the employer, attempt, at an employee's place of employment during the working hours of the employee, to persuade the employee to become, to refrain from becoming, to continue to be or cease to be a member of an employee organization;
 - (b) require the employer to terminate the employment of an employee because he has been expelled or suspended from membership in the employee organization for a reason other than a failure to pay the periodic dues and assessments uniformly required to be paid by all members of the employee organization as a condition of retaining membership in the employee organization;
 - (c) expel or suspend an employee from membership in the employee organization or deny membership in the organization to an employee by applying to him in a discriminatory manner the membership rules of the employee organization;
 - (d) take disciplinary action against or impose any form of penalty on an employee by applying to him in a discriminatory manner the standards of discipline of the employee organization;
 - (e) expel or suspend an employee from membership in the employee organization or take disciplinary action against or impose any form of penalty on an employee by reason of his having refused to perform an act that is contrary to this Ordinance; or
 - (f) act in bad faith or in a manner that is arbitrary or discriminatory in representing any employee in the bargaining unit, in the presentation of a grievance or in a reference thereof to adjudication pursuant to this Part whether or not he is a member of the employee organization.
- 204.(1) No person employed in a managerial capacity, whether or not he acts on behalf of the employer, shall discriminate against an employee organization.

Saving	(2)	Nothing in subsection (1) shall be construed to prevent a person employed in a managerial capacity from receiving representations from, or holding discussions with, the representatives of any employee organization.
Complaint to Board	205.(1)	Subject to section 206, the Board shall examine and inquire into any complaint made to it that the employer, an employee organization or any person has failed to observe any prohibition or to comply with any provision contained in this Part or in any regulation made under this Part or any order or direction made or given by the Board.
90 Day Time Limit	206.(1)	Subject to this section, a complaint pursuant to section 205 shall be made to the Board not later than ninety days from the date on which the complainant knew, or in the opinion of the Board ought to have known, of the action or circumstances giving rise to the complaint.
Limitations	(2)	<p>Subject to subsection (3), no complaint shall be made to the Board under section 205 on the ground that an employee organization or any person acting on behalf of an organization has failed to comply with paragraph 203(3)(c) or (d) unless</p> <ul style="list-style-type: none"> (a) the complainant has presented a grievance or appeal in accordance with any procedure that has been established by the employee organization, and to which the complainant has been given ready access; (b) the employee organization <ul style="list-style-type: none"> (i) has dealt with the grievance or appeal in a manner unsatisfactory to him, or (ii) has not, within six months from the date on which the complainant first presented his grievance or appeal pursuant to paragraph (a), dealt with his grievance or appeal; and (c) the complaint is made to the Board not later than ninety days from the first day on which the complainant could, in accordance with paragraph (b), make the complaint.
When Board May Hear Complaint	(3)	<p>The Board may, on application to it by a complainant, hear a complaint in respect of an alleged failure by an employee organization to comply with paragraph 203(3)(c) or (d) that has not been presented as a grievance or appeal to the employee organization, if the Board is satisfied that</p> <ul style="list-style-type: none"> (a) the action or circumstances giving rise to the complaint is such that the complaint should be dealt with without delay; or (b) the employee organization has not given the complainant ready access to a grievance or appeal procedure.

- 207.(1) Subject to subsection (2), upon receipt of a complaint made under section 205, the Board **Mediation by Board**
- (a) may assist the parties to the complaint to settle the complaint; and
 - (b) where the Board does not act under paragraph (a) or the complaint is not settled within such period as the Board considers to be reasonable in the circumstances, shall hear and determine the complaint.
- (2) The Board may refuse to hear and determine any complaint made pursuant to section 205 in respect of a matter that, in the opinion of the Board, could be referred by the complainant to adjudication under section 190 or 191. **Board may Refuse to Hear Complaint**
- 208.(1) Where, under paragraph 207(1)(b), the Board determines that any person, employee organization or the employer has failed to observe any prohibition or to comply with any provision, regulations, order or direction as described in section 205, it may make an order addressed to that person, employee organization or employer directing him or it to observe the prohibition, give effect to the provision, regulation, direction or order, or take such action as may be required in that behalf within such specified period as the Board may consider appropriate and **Board may Order Revocation of Complaint**
- (a) where an order is directed to a person who has acted or purported to act on behalf of the employer, it shall direct its order as well to the Commissioner;
 - (b) where an order is directed to a person who 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.
- (2) Where, under subsection 207(1), the Board determines that a party to a complaint has failed to comply with section 203, the Board may, by order, require the party to comply with that section and may **Board may Require Compliance**
- (a) in respect of a failure to comply with paragraph 203(2)(a) or (c) require the employer to
 - (i) reinstate any former employee affected by the failure as an employee of the employer or rescind any disciplinary action in respect of an employee, and
 - (ii) pay to any employee or former employee affected by the failure compensation not exceeding such sum as, in the opinion of the Board, is equivalent to the remuneration that would, but for the failure, have been paid by the employer to the employee;
 - (b) in respect of a failure to comply with paragraph 203(3)(c) or (e), by order require an employee organization to reinstate or admit an employee as a member of the employee organization;

- (c) in respect of a failure to comply with paragraph 203(2)(a) or (c), by order, require an employee organization to rescind any disciplinary action taken in respect of and pay compensation to any employee affected by the failure, not exceeding such sum as, in the opinion of the Board, is equivalent to any pecuniary or other penalty imposed on the employee by the employee organization; and
- (d) in respect of a failure to observe the prohibition in paragraph 203(3)(f), by order
 - (i) permit the employee to present a grievance and refer the grievance to adjudication without the approval of or representation by the bargaining agent referred to in subsection 184(2) or 111(2), and
 - (ii) require an employee organization to pay to any employee or former employee affected by the failure compensation not exceeding such sum as, in the opinion of the Board, is equivalent to any pecuniary loss that the employee or former employee sustained by reason of the failure.

(3) Where, under subsection 207(1), the Board determines that the employer has failed to comply with subsection 154(2), the Board may, by order, require the employer to comply with that section and may also require it to take such other remedial action as the Board may consider appropriate.

Defiance of Board Order to be Reported to Commissioner and Territorial Council 209.(1)

Where any order made under section 207 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 copy of its order, 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 Council of the Yukon Territory within fifteen days after receipt thereof by him if the Council is then sitting or if the Council is not then sitting the Commissioner shall forward to each of the members a copy of the order and the report and lay a copy of the order, report and relevant documents before the Council at its next sitting.

Offences and Penalties

Offence by Employee and Organization and Penalty 210.(1)

Every employee who contravenes subsection 197(1) or section 198 commits an offence and is liable on summary conviction to a fine not exceeding one hundred dollars.

(2)

Every officer or representative of an employee organization who contravenes subsection 199 commits an offence and is liable on summary conviction to a fine not exceeding three hundred dollars.

- (3) Every employee organization that contravenes section 199 commits an offence and is liable on summary conviction to a fine not exceeding one hundred and fifty dollars for each day that a strike declared or authorized by it in contravention of that section is or continues in effect.
- 211.(1) Every person employed in a managerial capacity who, by causing a lockout of any employee, contravenes section 200 commits an offence and is liable on summary conviction to a fine not exceeding one hundred and fifty dollars for each day that the lockout is or continues in effect. **Offence by Manager and Penalty**
- (2) Every person employed in a managerial capacity who counsels or procures a lockout in contravention of section 200 commits an offence and is liable on summary conviction to a fine not exceeding three hundred dollars.
- 212.(1) A prosecution for an offence under section 199 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. **Responsibility of Employee Organization**
- 213.(1) Except with the consent of the Board, no prosecution shall be instituted in respect of any offence under this Part. **Consent to Prosecute by Board Required**
- (2) Before consenting to the institution of a prosecution, the Board may consult with the parties, make such inquiries or hold such hearings as in its discretion it considers desirable. **Board may Consult with Parties**

GENERAL

- 214.(1) Each party to a collective agreement shall, forthwith after its execution, file a copy of the collective agreement with the Board. **Collective Agreements to be Filed**
- 215.(1) Subject to section 132, every order, award, direction, decision, declaration or ruling of the Board is final and shall not be questioned or reviewed in any court, except in accordance with section 216. **Prohibitive Clause**
- (2) Subject to subsection (1), no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain the Board in any of its proceedings under this Part.

- Appeal to Court of Appeal** 216.(1) The Court of Appeal has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi judicial basis, made by or in the course of proceedings before the Board upon the ground that the Board
- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
 - (b) erred in law in making its decision or order, whether or not the error appears on the face of the record; or
 - (c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
- (2) Any such application may be made by the Commissioner or a bargaining unit or any party directly affected by the decision or order by filing a notice of the application within ten days of the time the decision or order was first communicated to the Commissioner or the bargaining agent or to that party by the Board or within such further time as the court or a judge thereof may allow either before or after the expiry of those ten days.
- Declaratory Judgments** (3) The Board may at any stage of its proceedings refer any question or issue of law, or jurisdiction to the Court of Appeal for hearing and determination.
- (4) An application or reference to the Court of Appeal made under this section shall be heard and determined without delay and in a summary way.
- Service of Board Decisions etc.** 217.(1) A decision, determination, order, direction, declaration, ruling or award of the Board
- (a) if sent by registered mail to a person, an employee organization or the employer addressed to him or at his or its last known address, shall be deemed to have been released on the second day after the day on which it was so mailed; and
 - (b) if delivered to a person, an employee organization or the employer at his or its last known address, shall be deemed to have been released on the day next following the day on which it was so delivered.
- Defence** (2) Proof by a person, employee organization or the employer of failure to receive a determination, order, direction, declaration, ruling or award or a notice or report sent in the manner described in paragraph (1)(a), is a defence by such person, employee organization or the employer to an application for consent to institute a prosecution or to any proceedings to enforce an order of the Board pursuant to section 200.

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| 218.(1) | No member of the Board and no mediator or officer or employee of, or person appointed by the Board or by the Chairman, 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 Part. | Privilege |
| 219.(1) | A person who is summoned by the Board to attend as a witness in any proceeding taken under this Part, and who so attends, is entitled to be paid an allowance for expenses and a witness fee, determined in accordance with the scale for the time being in force with respect to witnesses in civil suits in the Court. | Witness Expenses |
| 220.(1) | A person appointed under this Part shall, before entering upon his duties, take an oath or affirmation in the form prescribed by the Chairman before any person authorized to take such oath or affirmation. | Oath |
| 221.(1) | Every person who acts as a mediator or who functions under this Part in any other capacity at the request of the Chairman, shall be paid such remuneration and expenses as may be fixed by the Commissioner on the recommendation of the Chairman. | Remuneration and Expenses of Officials |
| 222.(1) | Unless the Commissioner otherwise orders in any case or class of cases, a person appointed under this Part shall be deemed not to be employed in the Public Service for the purpose of the Public Service Superannuation Act. | Public Service Superannuation Act not Applicable |
| 223.(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 Part during that year and the Commissioner shall lay the Board's report before the Council of the Yukon Territory within fifteen days after receipt thereof or, if the Council is not then sitting, on any of the first fifteen days next thereafter that the Council is sitting. | Annual Report |
| 224.(1) | Every order, award, direction, decision, declaration or ruling of an adjudicator is final and shall not be questioned or reviewed in any court, except in accordance with section 225. | Prohibitive Clause |
| (2) | Subject to subsection (1), no order shall be made or process entered or proceeding taken in any court, whether by way of injunction, certiorari, prohibition, quo warranto or otherwise, to question, review, prohibit or restrain an adjudicator in any of his proceedings under this Part. | |
| 225.(1) | The Court has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi judicial basis, made by or in the course of | Appeal to Supreme Court |

proceedings before an adjudicator upon the ground that the adjudicator

- (a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise his jurisdiction;
- (b) erred in law in making his decision or order, whether or not the error appears on the face of the record; or
- (c) based his decision or order on an erroneous finding of fact that he made in a perverse or capricious manner or without regard for the material before him.

(2) Any such application may be made by the Commissioner or a bargaining unit or any party directly affected by the decision or order by filing a notice of the application within ten days of the time the decision or order was first communicated to the Commissioner or the bargaining agent or to that party by the adjudicator or within such further time as the Court or a judge thereof may allow either before or after the expiry of those ten days.

Declaratory Judgments

(3) An adjudicator may at any stage of the proceedings before him, refer any question or issue of law, or jurisdiction to the Court for hearing and determination.

(4) An application or reference to the Court made under this section shall be heard and determined without delay and in a summary way.

PART X

TRANSITORY

290.(1) In this section and in section 291, "teacher" means a person who is a teacher immediately prior to the time of coming into force of this Ordinance.

Teacher may Apply for Review of Certificate of Qualification

(2) Notwithstanding subsection 105(1), any teacher may within one year of the coming into force of this Ordinance apply in writing to the Registrar for a review of the category of the Certificate of Qualification assigned to the teacher.

(3) Where a teacher applies for review pursuant to this section, the provisions of sections 105 and 106 shall apply mutatis mutandis.

Registrar may Apply for Review of Certificate of Qualification of Teacher

291.(1) The Registrar may, within one year of the coming into force of this Ordinance, apply to the Teacher Qualification Board for a review of the category of the Certificate of Qualification assigned to any teacher.

- (2) Prior to making an application pursuant to subsection (1), the Registrar shall give the teacher not less than three months notice in writing of the application and may in the notice require the teacher to furnish material and evidence relevant to his qualifications.
 - (3) On receipt of the notice mentioned in subsection (2), the teacher shall furnish any evidence and material required of him in accordance with the notice.
 - (4) The Registrar shall furnish to the Board all material and evidence relevant to the application together with any material and evidence submitted by the teacher pursuant to the notice mentioned in subsection (2).
 - (5) Prior to its decision the Board may require the Registrar or the teacher to submit further evidence or material.
 - (6) The Board may confirm or vary the category of Certificate of Qualification assigned to a teacher and its decision on the matter shall be final and binding.
 - (7) Where the Board decides that the category of Certificate of Qualification of the teacher be varied the Superintendent shall amend the Certificate held by the teacher in accordance with the decision of the Board.
 - (8) Where pursuant to a decision of the Board, a different category of Certificate of Qualification is assigned to a teacher, the provisions of section 106 shall apply mutatis mutandis.
- 292.(1) Employees employed pursuant to the School Ordinance, as described in subsection 118(1), shall be deemed to be a relevant group of employees that constitutes a unit appropriate for collective bargaining as if the Board had determined the matter pursuant to subsection 135(1). **Certain Employees Deemed to be Bargaining Unit**
- 293.(1) Whereas the Yukon Teachers Association have represented a majority of teachers pursuant to section 98(2) of the School Ordinance as amended in 1967, (2nd session), and whereas the said Association in February, 1974, appointed a salary committee to discuss salaries and working conditions with the Advisory Committee appointed by the Commissioner pursuant to subsection 98(3) of the said Ordinance, and whereas the employer is satisfied that the said Association represents a majority of teachers as defined in subsection 288(1); the Yukon Teachers Association shall be deemed to be an employee organization certified by the Yukon Teachers Staff Relations Board as bargaining agent for the **Yukon Teachers Association Deemed to be Bargaining Agent**

employees in the bargaining unit mentioned in section 290 and the provisions of this Ordinance shall apply to it.

Notices to Bargain Deemed to be Given 294.(1)

The Yukon Teachers Association shall be deemed to have, on the coming into force of this Ordinance, given on behalf of the employees in the bargaining unit, notice in writing requiring the employer to commence bargaining collectively as if the notice had been given pursuant to subsection 153(1).

COMING INTO FORCE

Repeal 295.(1)

Sections 1 to 13 and 78 to 100 of the School Ordinance, being Chapter S.3 R.O.Y.T. 1971, are repealed.

Re-numbering of Former Ordinance (2)

Sections 14 through 77 of the said Ordinance shall be renumbered as sections 226 to 289 and Part II District Schools shall become Part IX District Schools.

Coming Into Force 296.(1)

This Ordinance or any portion thereof shall come into force on a day or days to be fixed by the Commissioner.

SCHEDULE TO SCHOOL ORDINANCE

DATE FIRST SCHOOL TERM COMMENCES	DAY OF WEEK CHRISTMAS FALLS	DATE CHRISTMAS VACATION COMMENCES	DATE SECOND SCHOOL TERM COMMENCES
SEPTEMBER 1ST	SUNDAY	DECEMBER 23RD	JANUARY 3RD
SEPTEMBER 5TH	MONDAY	DECEMBER 25TH	JANUARY 3RD
SEPTEMBER 4TH	TUESDAY	DECEMBER 24TH	JANUARY 3RD
SEPTEMBER 3RD	WEDNESDAY	DECEMBER 23RD	JANUARY 6TH
SEPTEMBER 2ND	THURSDAY	DECEMBER 22ND	JANUARY 5TH
SEPTEMBER 1ST	FRIDAY	DECEMBER 23RD	JANUARY 4TH
SEPTEMBER 1ST	SATURDAY	DECEMBER 23RD	JANUARY 3RD

CHAPTER 15
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

AN ORDINANCE TO AMEND THE SOCIETIES ORDINANCE

(Assented to April 26, 1974)

R.O.Y.T. Chapter S-7 The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- Annual general meeting
Annual statement filed with Registrar
1. Section 30 of the *Societies Ordinance* is repealed and the following substituted therefor:
- "30(1) Every Society shall hold an annual general meeting and shall, within thirty days after such general meeting, 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."
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CHAPTER 16
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

FIFTH APPROPRIATION ORDINANCE, 1973-74

(Assented to March 29, 1974)

Whereas it appears by message from James Smith, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending the thirty-first day of March, 1974.

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

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| 1. | This Ordinance may be cited as the <i>Fifth Appropriation Ordinance, 1973-74.</i> | Short Title |
| 2.(1) | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole Two Million, Nine Hundred Ninety-one Thousand Nine Hundred Thirty-eight Dollars and Sixteen Cents for defraying the several charges and expenses of the public service of the Territory for the twelve months ending the thirty-first day of March, 1974, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount
Granted |
| 3.(1) | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to be
accounted for |

SCHEDULE "A"

<u>Appropriation or Item</u>	
Administrative Services	\$ 100,000.00
Territorial Treasurer	1,319.29
Education	290,000.00
Secretary and Registrar General	15,000.00
Local Government	405,065.00
Tourism, Conservation and Information	100,000.00
Legal Affairs	26,000.00
Highways and Public Works	62,849.20
Yukon Housing Corporation	1.00
Project Capital	333,103.67
Loan Amortization	458,600.00
Dust Control Palliatives Revolving Fund	<u>1,200,000.00</u>
	<u>\$ 2,991,938.16</u>

CHAPTER 17
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

FIRST APPROPRIATION ORDINANCE, 1974-75

(Assented to April 26, 1974)

Whereas it appears by message from James Smith, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the public service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending the thirty-first day of March, 1975.

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

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| 1. | This Ordinance may be cited as the <i>First Appropriation Ordinance, 1974-75.</i> | Short Title |
| 2.(1) | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole Sixty Million Eight Hundred Sixty-two Thousand Nine Hundred Seven Dollars for defraying the several charges and expenses of the public service of the Territory for the twelve months ending the thirty-first day of March, 1975, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount
Granted |
| 3.(1) | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to be
accounted for |
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SCHEDULE "A"APPROPRIATION OR ITEM

Administrative Services	\$ 1,678,876.00
Department of Treasury	1,176,182.00
Department of Education	8,696,876.00
Department of Secretary and Registrar General	805,074.00
Department of Health, Welfare and Rehabilitation	7,605,918.00
Department of Local Government	1,977,189.00
Department of Tourism, Conservation and Information	1,663,100.00
Department of Legal Affairs	1,396,663.00
Department of Highways and Public Works	10,649,000.00
Yukon Housing Corporation	400,378.00
Project Capital	17,749,251.00
Loan Capital	2,350,000.00
Loan Amortization	4,714,400.00
	<u>\$ 60,862,907.00</u>

CHAPTER 18
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

SECOND APPROPRIATION ORDINANCE, 1974-75

(Assented to May 13, 1974)

Whereas it appears by message from James Smith, Esq., N.C.N.R.
Commissioner of the Yukon Territory, and in the estimates accompanying
the same that the sums hereinafter mentioned in Schedule "A" of this
Ordinance are required to defray certain expenses of the Public
Service of the Yukon Territory and for the purpose relating thereto,
for the twelve months ending the thirty-first day of March, 1975.

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

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|----|---|-----------------------------------|
| 1. | This Ordinance may be cited as the <i>Second Appropriation Ordinance, 1974-75.</i> | Short Title |
| 2. | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole One Hundred Seventy-two Thousand Six Hundred Ten (\$172,610.00) Dollars for defraying the several charges and expenses of the Public Service of the Territory for the twelve months ending the thirty-first day of March, 1975, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount Granted |
| 3. | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to be accounted for |

SCHEDULE "A"

<u>APPROPRIATION OR ITEM</u>	<u>AMOUNT</u>
Department of Education	\$ 168,610.00
Project Capital	<u>4,000.00</u>
	<u>\$ 172,610.00</u>

CHAPTER 19
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

THIRD APPROPRIATION ORDINANCE, 1974-75.

(Assented to May 13, 1974)

Whereas it appears by message from James Smith, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending the thirty-first day of March, 1975.

N.C.N.R.

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

- | | | |
|----|---|-------------------------------|
| 1. | This Ordinance may be cited as the <i>Third Appropriation Ordinance, 1974-75.</i> | Short Title |
| 2. | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole fifty-eight thousand four hundred (\$58,400.) dollars for defraying the several charges and expenses of the Public Service of the Territory for the twelve months ending the thirty-first day of March, 1975, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount
Granted |
| 3. | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to be
accounted for |

SCHEDULE "A"

<u>APPROPRIATION OR ITEM</u>	<u>AMOUNT</u>
Territorial Secretary and Registrar General	\$ 58,400.00

CHAPTER 20
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

FOURTH APPROPRIATION ORDINANCE 1974-75

(Assented to May 13, 1974)

Whereas it appears by message from Frank Fingland, Esq., Administrator of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending March 31, 1975. N.C.N.R.

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

- | | | |
|----|---|----------------------------------|
| 1. | This Ordinance may be cited as the <i>Fourth Appropriation Ordinance 1974-75</i> . | Short
Title |
| 2. | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole Sixty Thousand Dollars for defraying the several charges and expenses of the Public Service of the Territory for the twelve months ending March 31, 1975, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount
Granted |
| 3. | The due application of all monies expended pursuant to Section 2 shall be accounted for. | Monies to
be accounted
for |

SUPPLEMENTAL APPROPRIATION

Schedule "A"

<u>APPROPRIATION OF ITEM</u>	<u>AMOUNT</u>
Treasury	\$60,000.
	<hr/>
	<u>\$60,000.</u>

CHAPTER 21
ORDINANCES OF THE YUKON TERRITORY
(1974 Second Session)

FIFTH APPROPRIATION ORDINANCE 1974-75

(Assented to June 26, 1974)

Whereas it appears by message from James Smith, Esq.,
Commissioner of the Yukon Territory, and in the estimates accompanying
the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending the thirty-first day of March 1975.

N.C.N.R.

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

- | | | |
|-------|---|----------------------------------|
| 1. | This Ordinance may be cited as the <i>Fifth Appropriation Ordinance 1974/75</i> . | Short
Title |
| 2.(1) | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole four hundred fifty three thousand five hundred dollars for defraying the several charges and expenses of the Public Service of the Territory for the twelve months ending the thirty-first day of March 1975, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount
granted. |
| 3.(1) | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to
be accounted
for |

SCHEDULE "A"

Appropriation of Item

Operation and Maintenance

Department of Education

\$ 53,500.00

Project Capital

400,000.00

CHAPTER 22
ORDINANCES OF THE YUKON TERRITORY
(1974 Second Session)

FINANCIAL AGREEMENT ORDINANCE, 1974

(Assented to April 26, 1974)

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

SHORT TITLE

- | | | |
|----|---|-------------|
| 1. | This Ordinance may be cited as the <i>Financial Agreement Ordinance, 1974</i> . | Short Title |
|----|---|-------------|

PART I

- | | | |
|-------|--|--|
| 2.(1) | In this Part
"agreement" means the agreement entered into pursuant to section 3;
"fiscal year" means the period beginning on and including the first day of April in one year and ending on and including the thirty-first day of March in the next year;
"local administrative district" has the meaning given to it in the agreement. | Definitions
"agreement"
"fiscal year"
"local administrative district" |
| 3.(1) | Subject to this Part the Commissioner is authorized to enter into and execute, on behalf of the Government of the Yukon Territory, an agreement with the Government of Canada which will provide
(a) that the Government of Canada will pay to the Government of the Yukon Territory,
(i) as an operating grant for the fiscal year 1974-75, an amount equal to five million one hundred eighty-seven thousand dollars;
(ii) as a payment in lieu of the Government of the Yukon Territory levying personal and corporate income taxes, an amount equal to five million four hundred forty-six thousand dollars; and
(iii) in respect of the period from the first day of April 1974 to the thirty-first day of March 1975, an amount equal to all monies owed by the Government of the Yukon Territory to the Government of Canada and becoming due in that year under a loan agreement entered into pursuant to an Ordinance listed in the Schedule to this Ordinance; minus all monies paid to the Government of the Yukon Territory in that year in respect of self-liquidating loans made by the Territory with monies borrowed from the Government of Canada pursuant to any such loan agreement as certified by the Commissioner; and | Commissioner may execute agreement
Provisions of agreement |

- (b) that in consideration thereof the Government of the Yukon Territory will suspend and refrain and will require local administrative districts in the Territory to suspend and refrain from the imposition, levying and collection of individual income taxes, corporation taxes and corporation income taxes in respect of the period commencing on the first day of January 1974; and ending on the thirty-first day of December 1974.

Additional provisions of agreement 4.(1)

The agreement shall also provide

- (a) that the amounts payable by the Government of Canada to the Government of the Yukon Territory shall be paid
- (i) in the case of the amounts described in subparagraphs 3(a)(i) and (ii), in equal instalments in each month in the period from the first day of April 1974 to the thirty-first day of March 1975; and
- (ii) in the case of amounts described in subparagraph 3(a)(iii) in the amounts and at the times fixed in the loan agreements described in the subparagraphs; and
- (b) for such other terms and conditions as may be agreed upon for the purpose of giving effect to this Ordinance.

Variation and Amendment 5.(1)

The agreement may be varied or amended from time to time, as may be agreed upon with the Government of Canada by the Commissioner.

Ratification 6.(1)

No variation or amendment to the agreement made pursuant to section 5 is valid unless it is ratified by the Council.

Suspension of Ordinance etc. 7.(1)

Upon execution of the agreement, the Ordinance of the Territory and any regulations, rules, by-laws or orders made thereunder, including those of any local administrative district, shall, for the relevant periods provided in the agreement, be deemed to be amended, suspended or inoperative as the case may be to the extent necessary to give effect to the agreement and to permit the Government of the Yukon Territory to fulfill every obligation assumed by it under the agreement.

No tax collection contravening agreement 8.(1)

Neither the Commissioner nor any local administrative district shall do any act or exercise any power or collect any tax in contravention of the provisions of this agreement.

Tax reduced 9.(1)

In any case in which by the agreement any tax or fee is required to be reduced, such tax or fee is for the relevant periods provided in the agreement, reduced in accordance with the agreement, and the tax or fee in the reduced amount only shall continue to be payable, exigible and recoverable in the same manner as if it had not been reduced.

- | | | |
|--------|---|-------------------------------|
| 10.(1) | The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon Territory under the agreement. | Powers of Commissioner |
| 11.(1) | Sections 7 to 10 shall remain in operation for only so long as is necessary to give effect to the agreement. | Operation of Sections 7 to 10 |

PART II

- | | | |
|--------|--|--|
| 12.(1) | In this Part "agreement" means the agreement entered into pursuant to section 14. | "agreement" defined |
| 13.(1) | The Commissioner may on behalf of the Territory borrow from the Government of Canada a sum not exceeding eleven million six hundred three thousand dollars (\$11,603,000.00). | Commissioner may borrow |
| 14.(1) | <p>The Commissioner is authorized to enter into and execute on behalf of the Government of the Yukon Territory an agreement with the Government of Canada providing for</p> <ul style="list-style-type: none"> (a) the repayment to the Government of Canada of the amount borrowed pursuant to section 13; (b) the payment to the Government of Canada of interest at such rate as may be agreed upon by the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 13; and (c) such other terms and conditions as may be agreed upon by the Commissioner. | Commissioner may execute agreement |
| 15.(1) | The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon Territory under the agreement. | Commissioner may implement agreement |
| 16.(1) | No amount shall be borrowed by the Commissioner pursuant to this Ordinance after the thirty-first day of March 1975. | No borrowing after thirty-first day of March, 1975 |

SCHEDULE "A"

Yukon Hospital Loan Ordinance 1955

Loan Agreement Ordinance 1961

Financial Agreement Ordinance 1962

Financial Agreement Ordinance 1967

Canada and Anvil Agreements Ordinance 1968

Financial Agreement Ordinance 1969

Financial Agreement Ordinance 1970

Financial Agreement Ordinance 1971

Financial Agreement Ordinance 1972

Financial Agreement Ordinance 1973

CHAPTER 23
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

INTERIM SUPPLY APPROPRIATION ORDINANCE 1974-75

(Assented to March 29, 1974)

Whereas it appears by message from James Smith, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the Public Service of the Yukon Territory and for the purpose relating thereto, for the one month ending April 30, 1974.

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

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|----|---|-------------------------------|
| 1. | This Ordinance may be cited as the <i>Interim Supply Appropriation Ordinance 1974-75</i> . | Short Title |
| 2. | From and out of the Yukon Consolidated Fund there may be paid and applied a sum not exceeding in the whole five million seventy-one thousand nine hundred and nine dollars for defraying the several charges and expenses of the Public Service of the Territory for the one month ending April 30, 1974, as set forth in Schedule "A" of this Ordinance and such sum shall be paid and applied only in accordance with the Schedule. | Amount
Granted |
| 3. | The due application of all monies expended pursuant to Section 2 shall be accounted for. | Monies to be
accounted for |
-

Supplemental Appropriation

SCHEDULE "A"APPROPRIATION OR ITEM

Administrative Services	\$ 139,906.00
Department of Treasury	98,015.00
Department of Education	724,740.00
Department of Secretary and Registrar General	67,089.00
Department of Health, Welfare and Rehabilitation	633,826.00
Department of Local Government	164,766.00
Department of Tourism, Conservation and Information	138,592.00
Department of Legal Affairs	116,389.00
Department of Highways and Public Works	887,417.00
Yukon Housing Corporation	33,365.00
Project Capital	1,479,104.00
Loan Capital	195,833.00
Loan Amortization	392,867.00
	<hr/>
	\$ 5,071,909.00
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CHAPTER 24
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

LOAN AGREEMENT ORDINANCE (1974) NO. 1

(Assented to April 26, 1974)

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

- | | | |
|-------|---|--------------------------------------|
| 1. | This Ordinance may be cited as the <i>Loan Agreement Ordinance (1974) No. 1.</i> | Short Title |
| 2.(1) | The Commissioner may on behalf of the Yukon Territory borrow from the Government of Canada a sum not exceeding two million three hundred fifty thousand dollars for loans to municipalities, to Central Mortgage and Housing Corporation second mortgages, and for development of land. | Commissioner may borrow |
| 3.(1) | The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory an agreement with the Government of Canada providing for | Commissioner may execute agreement |
| | (a) the repayment to the Government of Canada of the amount borrowed pursuant to section 2; | |
| | (b) the payment to the Government of Canada of interest at such a rate as may be agreed upon by the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 2; and | |
| | (c) such other terms and conditions as may be agreed upon by the Commissioner. | |
| 4.(1) | The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Territory under this agreement. | Commissioner may implement agreement |

CHAPTER 25
ORDINANCES OF THE YUKON TERRITORY
1974 (Second Session)

MUNICIPAL GENERAL PURPOSES LOAN ORDINANCE

(Assented to April 26, 1974)

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

- | | | |
|---|-------|--|
| Short title | 1. | This Ordinance may be cited as the <i>Municipal General Purposes Loan Ordinance</i> . |
| Definitions | 2.(1) | In this Ordinance |
| "borrowing
by-law" | | "borrowing by-law" means a by-law mentioned in section 4; |
| "Council" | | "Council" means the Council of a municipality; |
| "municipality" | | "municipality" means a town or city. |
| Ordinance one
with Municipal
Ordinance | (2) | This Ordinance shall be construed as one with the <i>Municipal Ordinance</i> , but in case of conflict, the provisions of this Ordinance shall prevail. |
| Commissioner
may lend to
municipalities | 3.(1) | The Commissioner may on behalf of the Territory, lend a sum not exceeding one million six hundred twenty-five thousand dollars in the whole to municipalities in the Yukon Territory to enable them to carry on programs of municipal works and for that purpose, the Commissioner may, on behalf of the Territory, enter into agreements with the municipalities. |
| By-laws | 4.(1) | Subject to this Ordinance, a Council may pass by-laws for the borrowing of money for the purpose mentioned in section 3 but no such by-law shall be valid unless, prior to being finally passed by the Council, it has been approved in accordance with the Municipal Ordinance. |
| Form of
by-law | 5.(1) | A borrowing by-law shall set out in detail:
(a) the amount proposed to be borrowed;
(b) the purpose for which the expenditure is to be made;
(c) the term of the loan;
(d) the rate of interest payable thereon;
(e) the method of repayment; and
(f) the amount of the existing debt of the municipality, if any, and how much, if any, of the principal or interest thereof is in arrears. |

- (2) Every by-law to borrow money shall, by its terms:
 - (a) fix the amount of the loan and the rate or rates of interest payable thereon, and the places and the times when the principal and interest shall be payable;
 - (b) provide that the loan and interest thereon shall be paid in lawful money of Canada;
 - (c) provide for the levy of an annual tax or taxes sufficient to pay the principal and interest of the loan; and
 - (d) generally shall be in such form and contain such further provisions as may be required by the Commissioner.

- 6.(1) No money borrowed pursuant to a borrowing by-law shall be used for a purpose other than that stated in the by-law except that if on completion of the work for which the money was borrowed, there remains an unexpended balance, such balance may be used by a municipality
 - (a) for the payment of any interest payable in respect of the loan;
 - (b) for the repayment of the principal amount of the loan or any portion thereof; or
 - (c) for such other purposes and upon such terms and conditions as the Council, with the approval of the Commissioner, deems appropriate.

Money to be used for purpose stated

- 7.(1) A by-law may provide that the loan shall be repaid prior to the due date at the option of a municipality at such time or times as the municipality may find it possible to repay it.

Repayment prior to due date

- (2) Where the loan or any portion thereof is repaid prior to the due date, the repayment shall not affect the validity of any by-law by which taxes have been imposed in respect thereof, the validity of such taxes or the power of the Council to continue to collect taxes in respect thereof.

Redemption

- 8.(1) Any loan agreement made pursuant to this Ordinance shall be valid and binding upon a municipality notwithstanding any insufficiency in the form or substance of the agreement or the by-law if the by-law has been approved in accordance with the Municipal Ordinance.

Agreement binding

- 9.(1) If a municipality defaults in payment of the monies owing in respect of a loan made under a by-law passed pursuant to this Ordinance, the Council shall forthwith make a special levy against all property in the municipality to raise sufficient funds to pay the arrears owing on the loan.

Special levy where default in debentures

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C-12.1	Conflict of Laws (Traffic Accidents)	new	- 1972,c.3
C-13	Consumers' Protection		
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C-19.1	Corrections	new	- 1973(1st)
C-20	Court of Appeal	s.5	- 1974,c.4
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E-1	Elections	s.4(1) s.15(2) Sched. I	- 1974,c.5 - 1974,c.5 - 1974,c.5
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E-2	Electrical Protection		
E-2.1	Electrical Public Utilities	new s.19(2) s.21(2) s.26(1)	- 1972,c.4 - new 1974,c.6 - new 1974,c.6 - 1974,c.6
E-3	Elevator and Fixed Conveyances		
E-4	Employment Agencies	R/R	- 1972,c.5
E-4	Employment Agencies	new	- 1972,c.5
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E-6	Evidence		
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F-1	Factors		
F-2	Fair Practices	s.3 s.4 s.5 Paragraph 13 (1)(d) repealed s.13(3)	- 1974,c.7 - 1974,c.7 - 1974,c.7 - 1974,c.7 - 1974,c.7
F-3	Fatal Accidents		
F-4	Financial Administration		
F-5	Fire Prevention	s.21.1 s.21.1	- new 1972,c.18 - 1973(1st)
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<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCE</u>	<u>AMENDMENTS</u>	
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F-11	Fuel Oil Tax	new	- 1973(1st)
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G-1	Game	Schedule I Sched. III repealed s.2 s.37(1) s.38 s.48(1)	- 1972,c.19 - 1972,c.19 - 1973(1st) - 1973(1st) - 1973(1st) - 1973(1st)
G-2	Gaols		
G-3	Garage Keepers' Lien		
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G-5	Gasoline Handling	new	- 1972,c.6
H-1	Health Care Insurance Plan		
H-2	Historic Sites and Monuments		
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H-5	Housing		
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L-1	Labour Standards	s.11(1) s.12.1(1)-12.6(1)	- 1973(1st) - new 1973(1st)
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<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCE</u>	<u>AMENDMENTS</u>	
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L-10.1	Lotteries	new	- 1974,c.2
L-11	Low Cost Housing		
M-1	Magistrat's Court		
M-2	Maintenance		
M-3	Marriage		
M-4	Married Women's Property		
M-5	Mechanics' Lien		
M-5.1	Mediation Board	new	- 1972,c.9
M-6	Medical Profession		
M-7	Mental Health	s.2 s.6.1-6.3(1)	- 1973(1st) - new 1973(1st)
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M-9	Mining Safety	s.10(1)	- 1974,c.10
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M-11	Motor Vehicles	s.26(1) s.9 s.15(3) s.26(2) s.28(1) s.32(1) s.49(4) s.62(4) s.155(1) s.9(2) & 9(3) s.62(3) paragraph 155 (1)(w) repealed s.175(1) & 175(2)	- 1972,c.23 - 1973(1st) - new 1973(1st) - 1973(1st) - 1973(1st) - 1973(1st) - 1973(1st) - new 1973(1st) - 1973(1st) - 1974,c.11 - 1974,c.11 - 1974,c.11 - new 1974,c.11
M-12	Municipal	R/R	- 1972,c.10
M-12	Municipal	new	- 1972,c.10
M-13	Municipal Aid	new	- 1972,c.11
M-14	Municipal Elections	new	- 1972,c.12

<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCE</u>	<u>AMENDMENTS</u>
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O-1	Old Age Assistance and Blind Persons' Allowance	
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P-1	Partnership	
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P-3	Perpetuities	
P-4	Pharmaceutical Chemists	s.6.1 - new 1973(1st) s.24(1) - 1973(1st)
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P-6	Pounds	s.19.1(1) - new 1973(1st) s.20 - 1973(1st) s.21(1) - 1973(1st) s.22(1) - 1973(1st) s.23(1) - 1973(1st)
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P-9	Public Printing	
P-10	Public Service	
P-11	Public Service Staff Relations	s.2 (new definition)- 1974,c.13 s.7(1),(2) & (3) - 1974,c.13 s.8(2) - new 1974,c.13 paragraph 12(2)(a) - 1974,c.13 s.12(3) - 1974,c.13
R-1	Reciprocal Enforcement of Judgments	
R-2	Reciprocal Enforcement of Maintenance Orders	
R-3	Recording of Evidence by Sound Apparatus	
R-4	Regulations	
R-5	Rehabilitation Services	
S-1	Sale of Goods	
S-2	Saw Logs Driving	
S-3	School	s.1-13 & 78-100 repealed - 1974,c.14 s.14-77 now numbered s.226-289 - 1974,c.14 Part II District Schools now Part IX - 1974,c.14
S-4	Scientists and Explorers	
S-5	Securities	

<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCE</u>	<u>AMENDMENTS</u>	
S-6	Social Assistance		
S-7	Societies	s.30	- 1974,c.15
S-8	Steam Boilers		
S-9	Students' Grants		
S-10	Superannuation, Territorial Employees'		
S-10.1	Supreme Court		
S-11	Survivorship		
T-01	Taxation	R/R	- 1972,c.13
T-01	Taxation	new	- 1972,c.13
T-1	Tenants in Common		
T-2	Tobacco Tax	new	- 1974,c.3
T-3	Trade Schools Regulation		
T-4	Transport Public Utilities		
T-5	Trustee		
V-1	Variation of Trusts		
V-2	Vital Statistics	s.2	- 1973(1st)
		s.3 repealed	- 1973(1st)
		s.4.1	- new 1973(1st)
		s.4-6	- 1973(1st)
		s.9-10	- 1973(1st)
		s.12-14	- 1973(1st)
		s.15	- 1973(1st)
		s.16 repealed	- 1973(1st)
		s.17	- 1973(1st)
		s.26-27	- 1973(1st)
		s.30	- 1973(1st)
		s.45	- 1973(1st)
		Form A-H repealed	- 1973(1st)
		Form J-K repealed	- 1973(1st)
W-1	Wages Recovery		
W-2	Warehousemen's Lien		
W-3	Wills		
W-4	Woodmen's Lien		
W-5	Workmen's Compensation	R/R	- 1973,c.6
W-5	Workmen's Compensation	new	- 1973,c.6
W-6	Workmen's Compensation Supplementary Benefits	new	- 1973,c.7

