

CONSOLIDATION OF WILDLIFE ACT

S.Nu. 2003,c.26

In force July 9, 2005, except s.40,41,66(2),82,152(4): SI-001-2005

s.40,41,66(2),82,152(4) NIF: SI-001-2005

(Current to: February 13, 2020)

The following provisions have been deleted for the purposes of this consolidation:
s.250 to 254 (Consequential Amendments)

AS AMENDED BY:

S.Nu. 2005,c.12

In force May 5, 2005

S.Nu. 2007,c.8,s.14

s.14 in force November 8, 2007

S.Nu. 2008,c.17,s.48

s.48 in force September 18, 2008

S.Nu. 2016,c.12,s.19

s.19 in force April 1, 2017: SI-003-2017

S.Nu. 2017,c.22,s.34

s.34 in force June 8, 2017

S.Nu. 2018,c.8,s.11(1)(c)

s.11(1)(c) in force October 17, 2018

S.Nu. 2018,c.9,s.2

s.2 in force October 1, 2018: SI/2018-83 [S.C. 2017,c.33]

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

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at www.nunavutlegislation.ca but are not official statements of the law.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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WILDLIFE ACT

PART 1

GENERAL PROVISIONS

Purpose, Values and Principles

Purpose of this Act

1. (1) The purpose of this Act is to establish a comprehensive regime for the management of wildlife and habitat in Nunavut, including the conservation, protection and recovery of species at risk, in a manner that implements provisions of the *Nunavut Land Claims Agreement* respecting wildlife, habitat and the rights of Inuit in relation to wildlife and habitat.

Values

- (2) To fulfill its purpose, this Act is intended to uphold the following values:
- (a) wildlife and habitat should be managed comprehensively since humans, animals and plants in Nunavut are all inter-connected;
 - (b) to be comprehensive, the management of wildlife and habitat should include research, analysis, education, harvesting, regulation, conservation, protection, restoration and revitalization;
 - (c) Inuit are traditional and current users of wildlife and their rights under the *Nunavut Land Claims Agreement* in relation to wildlife and habitat, which flow from that use, should be given full force and effect;
 - (d) the management of wildlife and habitat and the exercise of Inuit harvesting rights should be governed by and subject to the conservation principles;
 - (e) the precautionary principle should govern decision making under this Act;
 - (f) the guiding principles and concepts of Inuit Qaujimajatuqangit are important to the management of wildlife and habitat and should be described and made an integral part of this Act;
 - (g) certain provisions of the *Nunavut Land Claims Agreement* respecting wildlife, habitat and the rights of Inuit in relation to wildlife and habitat should be included in this Act to provide Nunavummiut with greater certainty and understanding;
 - (h) all wildlife and habitat should be recognized as intrinsically valuable and worth more than just the benefits derived from harvesting and commercial activities;
 - (i) the biological diversity of Nunavut should be maintained and wildlife resources should be used in a sustainable manner;
 - (j) the management of wildlife and habitat should provide optimum protection to the renewable resource economy;

- (k) no species in Nunavut should be allowed to become extinct or extirpated as a consequence of human activities;
- (l) the Nunavut Wildlife Management Board, as the main instrument of wildlife management in the Nunavut Settlement Area, should be enabled and empowered to fulfill its responsibilities;
- (m) wildlife management should be an effective system that complements Inuit harvesting rights and priorities, recognizes Inuit systems of wildlife management that contribute to the conservation of wildlife and protection of habitat, and recognizes the need for an effective role for Inuit in all aspects of wildlife management;
- (n) RWOs and HTOs should play an important role in wildlife management; and
- (o) the Government of Nunavut, which retains ultimate responsibility for wildlife management in Nunavut, should be enabled and empowered to fulfill its responsibilities.

Conservation principles

- (3) The following conservation principles apply under this Act:
- (a) the maintenance of the natural balance of ecological systems;
 - (b) the protection of habitat;
 - (c) the maintenance of vital, healthy, wildlife populations capable of sustaining harvesting; and
 - (d) the restoration and revitalization of depleted populations of wildlife and their habitat.

Interpretation

Definitions

2. In this Act,

"abode" means a place, such as a den, nest or other similar place, that is occupied or habitually occupied by one or more wild animals during all or part of their life cycles, including breeding, rearing, staging, wintering, feeding or hibernating; (*demeure*)

"accepted decision of the NWMB" means a decision of the NWMB, within its responsibilities under the Agreement or this Act, that is to be implemented by the Minister pursuant to subsection 157(1); (*décision du CGRFN acceptée*)

"adjusted basic needs level" means the basic needs level of harvesting by Inuit as adjusted under Sections 5.6.26 to 5.6.30 of the Agreement; (*contingent de base ajusté*)

"Agreement" means the land claims agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada that was ratified by those Inuit and ratified, given effect and declared valid by the *Nunavut Land Claims Agreement Act*, which came into force on July 9, 1993, and includes any amendments to that Agreement; (*Accord*)

"alternative measures" means measures, other than judicial proceedings, used to deal with a person who is alleged to have committed an offence; (*mesures de rechange*)

"attractant" means food, food waste, compost or garbage that could attract wild animals; (*substance attractive*)

"basic needs level" means the level of harvesting by Inuit identified in Sections 5.6.19 to 5.6.25 of the Agreement; (*contingent de base*)

"big game" means

- (a) *Canis* - coyote and wolf,
- (b) *Gulo* - wolverine,
- (c) *Ovibos* - muskox,
- (d) *Ursus* - bears, and
- (e) *Cervidae* - including caribou, moose, deer and reindeer; (*gros gibier*)

"biological diversity" means the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part, and includes diversity within species, between species and of ecosystems; (*diversité biologique*)

"bird of prey" means

- (a) *Falconiformes* - including eagle, falcon, hawk, harrier and osprey, and
- (b) *Strigiformes* - including owl; (*oiseau de proie*)

"conservation officer" means a person appointed or designated as a conservation officer under section 163; (*agent de conservation*)

"convicted" does not include the granting of an absolute or conditional discharge; (*déclaré coupable*)

"COSEWIC" means the Committee on the Status of Endangered Wildlife in Canada established by section 14 of the *Species At Risk Act* (Canada); (*COSEPAC*)

"critical habitat" means the habitat that is necessary for the survival or recovery of a listed species; (*habitat essentiel*)

"Designated Inuit Organization" in respect of a function, means any of the organizations that have been designated as responsible for that function under Section 39.1.3 of the Agreement; (*organisation inuit désignée*)

"dwelling" includes a dwelling in a camp occupied by one or more persons, families or groups who occupy the particular location on a temporary, seasonal, intermittent, semi-permanent or year round basis for the purposes of harvesting wildlife and the associated use and enjoyment of lands; (*logement*)

"ecosystem" means a dynamic complex of plant, animal and other living communities and their non-living environment interacting as a functional unit; (*écosystème*)

"endangered" means, in respect of a species, that it is facing imminent extirpation or extinction in Nunavut; (*espèce en voie de disparition*)

"extirpated" means, in respect of a species, that it no longer exists in the wild in Nunavut, but exists elsewhere in the wild; (*espèce disparue*)

"Fund" means the Natural Resources Conservation Trust Fund continued under section 181; (*Fonds*)

"furbearers" means the wildlife listed in Schedule 5.2 of the Agreement, namely

- (a) *Spermophilus* - Arctic ground squirrel,
- (b) *Tamiascirus* - red squirrel,
- (c) *Lepus* - hare,
- (d) *Castor* - beaver,
- (e) *Alopex* - white fox and arctic fox,
- (f) *Vulpes* - red, cross, black and silver fox,
- (g) *Canis* - coyote and wolf,
- (h) *Mustela* - ermine, weasel, least weasel and mink,
- (i) *Gulo* - wolverine,
- (j) *Lutra* - otter,
- (k) *Martes* - marten and fisher,
- (l) *Lynx* - lynx,
- (m) *Ondatra* - muskrat,
- (n) *Ursus* - bear,
- (o) *Mephitis* - striped skunk,
- (p) *Lemmus* - brown lemming,
- (q) *Dicrostony* - collared lemming,
- (r) *Synaptomys* - northern bog lemming,
- (s) *Penacomys* - heather vole,
- (t) *Clethrionomys* - red-backed vole,
- (u) *Microtus* - meadow vole, and
- (v) *Marmota* - marmot, groundhog and woodchuck;
(*animaux à fourrure*)

"game" means big game, furbearers and small game; (*gibier*)

"habitat" means the area or type of site,

- (a) where a species, or a member of a species naturally occurs or where it formerly occurred and has the potential to be reintroduced, or
- (b) upon which a species, or a member of a species, directly or indirectly depends to carry out its life processes; (*habitat*)

"harvest" means the reduction of wildlife into possession, and includes hunting, trapping, netting, egging, picking, collecting, gathering, spearing, killing, capturing or taking by any means; (*récolte* or *récolter*)

"hunt" means doing any of the following things to a wild animal with the intention of killing or capturing it or while in possession of a trap or weapon, whether or not the wild animal is then or subsequently harvested or wounded: chasing, driving, flushing, attracting, pursuing, worrying, following after or on the trail of, searching for, setting a trap for, shooting at, wounding, stalking or lying in wait; (*chasser*)

"Hunters and Trappers Organization" or "HTO" means a non-profit corporation that is a Hunters and Trappers Organization as defined Section 1.1.1 of the Agreement; (*organisation de chasseurs et de trappeurs* or *OCT*)

"Inuit of Northern Quebec" means Inuit as defined in the *James Bay and Northern Quebec Agreement*; (*Inuit du Nord québécois*)

"Inuit Qaujimajatuqangit" means traditional Inuit values, knowledge, behaviour, perceptions and expectations; (*Qaujimajatuqangit Inuit*)

"Inuk" means a person enrolled from time to time under Article 35 of the Agreement; (*Inuk*)

"licence" means a licence, permit or other authorization to engage in any activity in relation to wildlife or habitat issued under this Act; (*permis*)

"List of Species at Risk" means the list of species that have been designated as extirpated, endangered, threatened or of special concern under subsection 131(2); (*Liste des espèces en péril*)

"listed species" means a species, or member of a species, that is included in the List of Species at Risk; (*espèce inscrite*)

"Manitoba band" means the Fort Churchill Indian Band and the Northlands Indian Band; (*bande du Manitoba*)

"member" means, in relation to a species, an individual animal or plant of a species, whether living or dead, at any developmental stage, including larvae, embryos, eggs, sperm, seeds, pollen, spores and asexual propagules, and all parts and products from it; (*individu*)

"non-quota limitation" means a limitation of any kind, except a total allowable harvest, including a limitation on the season of harvest, the sex of wildlife, size of wildlife, age of wildlife or method of harvest; (*limite non quantitative*)

"NSRC" means the Nunavut Species at Risk Committee established under section 159; (*CEPN*)

"Nunavut Settlement Area" has the meaning assigned to that expression by Section 3.1.1 of the Agreement and includes the Outer Land Fast Ice Zone, as defined by Section 1.1.1 of the Agreement, where applicable under Article 16 of the Agreement; (*région du Nunavut*)

"NWMB" means the Nunavut Wildlife Management Board, as established by the Agreement; (*CGRFN*)

"of special concern" means, in relation to a species, that the species

- (a) may become a threatened or endangered species because of a combination of biological characteristics and identified threats,
- (b) is rare inside and outside Nunavut, or
- (c) is threatened or endangered outside Nunavut; (*espèce préoccupante*)

"place" includes any container, any building or structure, including a tent, and any vehicle or other conveyance; (*lieu*)

"prescribed" means as established by or under a regulation; (*English only*)

"proper identification" means the identification required under section 17; (*pièce d'identité appropriée*)

"recovery policy" means a recovery policy for an endangered or threatened species under this Act; (*politique de rétablissement*)

"Regional Wildlife Organization" or "RWO" means a non-profit corporation that is a Regional Wildlife Organization as defined Section 1.1.1 of the Agreement; (*organisation régionale des ressources fauniques* or *ORRF*)

"Saskatchewan band" means the Black Lake Indian Band, the Hatchet Lake Indian Band and the Fond du Lac Indian Band; (*bande de la Saskatchewan*)

"sell" includes to offer for sale or lease, to have in possession for sale or lease or to deliver for sale or lease; (*vente*)

"small game" means

- (a) *Erethizon* - including porcupine,
- (b) *Lepus* - including hare,
- (c) *Marmota* - including marmot, wood chuck and ground hog,
- (d) *Spermophilus* - including Arctic ground squirrel,
- (e) *Tamiasciurus* - including red squirrel,
- (f) an upland game bird, and
- (g) any other wildlife of a genus prescribed as small game; (*petit gibier*)

"special management area" means an area of Nunavut that is established as a special management area under section 141; (*région de gestion spéciale*)

"species" means a species, subspecies, variety or geographically or genetically distinct population of wildlife that

- (a) is native to Nunavut, or has extended its range into Nunavut without human intervention, and
- (b) has been present in Nunavut for at least 50 years; (*espèce*)

"species at risk" means a species of wildlife that is extirpated, endangered or, threatened or a species of special concern; (*espèce en péril*)

"Superintendent" means the Superintendent of Wildlife appointed under section 162; (*surintendant*)

"surplus" means the difference between the adjusted basic needs level and the total allowable harvest and, where there is no adjusted basic needs level, the difference between the basic needs level and total allowable harvest; (*excédent*)

"tag" means a tag issued under section 126; (*étiquette*)

"threatened" means, in respect of a species, that it is likely to become endangered if nothing is done to reverse the factors leading to its extirpation or extinction; (*espèce menacée*)

"total allowable harvest" for a stock or population means an amount of wildlife able to be lawfully harvested pursuant to Sections 5.6.16 to 5.6.18 of the Agreement; (*récolte totale autorisée*)

"traffic" includes to acquire, auction, barter, buy, deal, exchange, export, give, import, receive as a gift, sell, tender and trade, and to offer to traffic; (*faire le commerce*)

"trap" means a snare, deadfall, trap or other similar device for capturing animals, alive or dead; (*piège*)

"trapping" means the setting of a trap to harvest a wild animal or the harvesting of a wild animal with a trap; (*piégeage*)

"vehicle or other conveyance" means a vehicle, aircraft or water-borne craft or any other contrivance that is used to move persons or goods, including a trailer, sled or qamutiik pulled by a conveyance, a sled pulled by dogs and a pack animal; (*véhicule ou autre moyen de transport*)

"vendor" means a person authorized to issue licences on behalf of the Government of Nunavut under section 27; (*agent de délivrance*)

"weapon" includes a firearm, a bow, a crossbow, a harpoon, a spear or any other thing used or intended to be used to harvest wildlife, other than a trap, and includes weapons no longer in use or weapons invented after this Act comes into force; (*arme*)

"wild animal" means an animal member of a species, including all parts and products from the animal; (*animal sauvage*)

"wildlife" means the flora and fauna to which this Act applies under subsections 6(2) and (3), including all parts and products from wildlife; (*ressource faunique*)

"wildlife guardian" means a person appointed as a wildlife guardian under subsection 165(1); (*garde-chasse*)

"wildlife sanctuary" means an area of Nunavut established or continued as a sanctuary for wildlife under this Act. (*refuge faunique*)

Interpretation

3. (1) The Government of Nunavut, the NWMB and all persons and bodies performing functions under this Act and the courts shall interpret and apply this Act in accordance with the purpose, values and principles of this Act.

The Inuit Language

(2) The Inuit Language, or the appropriate dialect of the Inuit Language, may be used to interpret the meaning of any guiding principle or concept of Inuit Qaujimaqatuqangit used in this Act. S.Nu. 2008,c.17,s.48.

Determining residence

4. (1) Whether a natural person is resident in Nunavut or a particular community within Nunavut for the purpose of this Act shall be determined by reference to all the facts of the case and by the provisions of this section, as far as they are applicable.

Place of home or dwelling

(2) A person is resident in the place of the person's home or dwelling to which, when absent, the person intends to return.

Residence in Nunavut

(3) A person becomes a resident of Nunavut if the person moves to Nunavut and continues to reside in Nunavut for at least three months.

Temporary absence

(4) A person does not lose residence in the place of the person's home or dwelling in Nunavut by leaving it for a temporary purpose, including

- (a) the pursuit of education at an educational institution outside Nunavut; or
- (b) temporary employment for less than 180 days at a place outside Nunavut.

Intention to reside outside Nunavut

(5) A person loses residence in Nunavut if the person leaves his or her place of residence in Nunavut with the intention of residing outside Nunavut.

Family

(6) The place where a person's spouse and children reside is deemed to be the place of residence of the person, unless the person intentionally establishes or continues his or her residence in some other place.

Single residence

(7) A person is deemed to have a residence in only one place and, if a person maintains a residence in more than one place, the person must select one residence for the purpose of this Act.

Aboriginal and treaty rights

5. (1) For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

Inconsistency with Agreement

(2) Where there is an inconsistency or conflict between the Agreement and this Act, or a regulation or order made under this Act, the Agreement prevails to the extent of the inconsistency or conflict.

Inconsistency with *Nunavut Land Claims Agreement Act* (Canada)

(3) Where there is an inconsistency or conflict between the *Nunavut Land Claims Agreement Act* (Canada) and this Act, or a regulation or order made under this Act, the *Nunavut Land Claims Agreement Act* (Canada) prevails to the extent of the inconsistency or conflict.

Conflict with other enactments

(4) This Act, or a regulation or order made under this Act, prevails to the extent of any inconsistency or conflict with the following:

- (a) any other enactment or any order made under another enactment, except the *Access to Information and Protection of Privacy Act*; or
- (b) any municipal by-law.
S.Nu. 2007,c.8,s.14.

Application**Area of application**

6. (1) This Act applies throughout Nunavut.

Application to wildlife and habitat

(2) This Act applies in respect of

- (a) all terrestrial, aquatic, avian and amphibian flora and fauna that are wild by nature or wild by disposition;
- (b) all parts and products from wildlife; and
- (c) all habitat of wildlife.

Exception

(3) This Act does not apply to

- (a) a species that is a fish, as defined in section 2 of the *Fisheries Act* (Canada);
- (b) a marine plant, as defined in section 47 of the *Fisheries Act* (Canada); or
- (c) a bacterium or virus.

Domestic animals

(4) This Act applies to domestic animals where specifically provided.

Binding effect

7. This Act binds

- (a) the Government of Nunavut and its corporations, agents, administrators, servants, employees and agencies;
- (b) the NWMB and its agents, administrators, servants and employees; and
- (c) Her Majesty in right of Canada and Her Majesty's corporations, agents, administrators, servants and employees and agencies.

Inuit Qaujimagatuqangit

Guiding principles and concepts

8. The following guiding principles and concepts of Inuit Qaujimagatuqangit apply under this Act:

- (a) *Pijitsirniq/Ihumaliukti*, which means that a person with the power to make decisions must exercise that power to serve the people to whom he or she is responsible;
- (b) *Papattiniq/Munakhinik*, which means the obligation of guardianship or stewardship that a person may owe in relation to something that does not belong to the person;
- (c) *Aajiiqatigiingniq/Pitiakatigiiklotik*, which means that people who wish to resolve important matters or any differences of interest must treat each other with respect and discuss them in a meaningful way, keeping in mind that just because a person is silent does not necessarily mean he or she agrees;
- (d) *Pilimmaksarniq/Ayoikyumikatakhimanik*, which means that skills must be improved and maintained through experience and practice;
- (e) *Piliriqatigiingniq/Havakatigiiklutik*, which means that people must work together in harmony to achieve a common purpose;
- (f) *Avatimik Kamattiarniq/Amiginik Avatimik*, which means that people are stewards of the environment and must treat all of nature holistically and with respect, because humans, wildlife and habitat are inter-connected and each person's actions and intentions towards everything else have consequences, for good or ill;
- (g) *Qanuqtuurunnarniq/Kaujimatukanut*, which means the ability to be creative and flexible and to improvise with whatever is at hand to achieve a purpose or solve a problem;
- (h) *Qaujimanilik/Ihumatuyuk*, which means a person who is recognized by the community as having in-depth knowledge of a subject;
- (i) *Surattittailimaniq/Hugattittailimanik*, also called *Iksinnaittailimaniq/Ikhinnaittailimanik*, which means that hunters should hunt only what is necessary for their needs and not waste the wildlife they hunt;
- (j) *Iliijaqsuittailiniq/Kimaitailinik*, which means that, even though wild animals are harvested for food and other purposes, malice towards them is prohibited;
- (k) *Sirliqsaaqtittittailiniq/Naklihaaktitihuiluhi*, which means that hunters should avoid causing wild animals unnecessary suffering when harvesting them;
- (l) *Akiraqtuutijariaqanginniq Nirjutiit Pijjutigillugit/Hangiaguikluhi Nekyllit InuupPiutigingitait*, which means that wildlife and habitat are not possessions and so hunters should avoid disputes over the wildlife they harvest or the areas in which they harvest them; and
- (m) *Ikpigusuttiarniq Nirjutilimaanik/Pitiaklugit nekyutit*, which means that all wildlife should be treated respectfully.

Pijitsirniq/Ihumaliukti

9. (1) The Government of Nunavut, the NWMB, the NSRC, every RWO and HTO and every conservation officer and wildlife guardian must follow the principle of *Pijitsirniq/Ihumaliukti* when performing their functions under this Act.

Papattiniq/Munakhinik

(2) Although the principle of *Papattiniq/Munakhinik* traditionally applied to objects rather than to living things, because the Government of Nunavut and the NWMB have responsibilities to conserve wildlife, they must endeavour to apply the principle of *Papattiniq/Munakhinik* to wildlife and habitat and conserve these resources for future generations of Nunavummiut.

Aajiiqatigiingniq/Pitiakatigiiklotik

(3) Where meetings, discussions or consultations take place under this Act, the parties in attendance must use their best efforts to follow the principle of *Aajiiqatigiingniq/Pitiakatigiiklotik* and remember that a person's silence does not necessarily mean agreement, unless it is made clear to him or her that silence will be assumed to be acceptance or agreement.

Pilimmaksarniq/Ayoikyumikatakhimanik

(4) The Government of Nunavut, the NWMB, every RWO and HTO, every conservation officer and wildlife guardian and every person harvesting wildlife must use their best efforts to follow the principle of *Pilimmaksarniq/Ayoikyumikatakhimanik* when performing their various functions and activities.

Piliriqatigiingniq/Havakatigiiklutik

(5) The Government of Nunavut, the NWMB, every RWO and HTO, every conservation officer and wildlife guardian and Nunavummiut must use their best efforts to follow the principle of *Piliriqatigiingniq/Havakatigiiklutik* to fulfill the purpose, values and principles of this Act.

Avatimik Kamattiarniq/Amiginik Avatimik

(6) The Government of Nunavut, the NWMB, every RWO and HTO, every conservation officer and wildlife guardian and Nunavummiut must use their best efforts to follow the principle of *Avatimik Kamattiarniq/Amiginik Avatimik*.

Qanuqtuurunnarniq/Kaujimatukanut

(7) Because of the unique challenges facing Nunavut, this Act must be interpreted and applied in a way that respects the principle of *Qanuqtuurunnarniq/Kaujimatukanut*.

PART 2
RIGHTS AND AUTHORITIES

Inuit Rights

Inuit right to harvest

10. (1) Pursuant to the Agreement, an Inuk with the proper identification may harvest wildlife without any form of licence or the imposition of any form of tax or fee if, in the case where a total allowable harvest for a stock or population of wildlife is established, the harvesting does not exceed his or her adjusted basic needs level.

Additional right

(2) An Inuk with the proper identification may harvest wildlife without any form of licence or the imposition of any form of tax or fee if, in the case where a total allowable harvest for a stock or population of wildlife is not established, the harvesting does not exceed the full level of the Inuk's economic, social and cultural needs.

Area of right

(3) The right of an Inuk to harvest under this section applies throughout Nunavut.

Undue limitations

(4) Pursuant to the Agreement, non-quota limitations established on Inuit shall not unduly or unreasonably constrain their harvesting activities.

Right of access

11. (1) Subject to this Act, all Inuit have the free and unrestricted right of access for the purpose of harvesting wildlife to all lands within Nunavut, including, for greater certainty, critical habitats, wildlife sanctuaries, special management areas, parks and all lands vested in a municipal corporation.

Excluded areas

- (2) The right of access referred to in subsection (1) does not extend to
- (a) lands that are dedicated to military or national security purposes or being temporarily used for such purposes under the *National Defence Act*;
 - (b) lands owned in fee simple, other than by municipal corporations, at the date of ratification of the Agreement;
 - (c) lands granted in fee simple after the date of ratification of the Agreement, where the parcel of land is less than 259 hectares;
 - (d) lands that were subject to an agreement for sale at the date of ratification of the Agreement;
 - (e) lands subject to a surface lease current on October 27, 1981, where the lease was not re-negotiated to provide for the right of access referred to in subsection (1); or
 - (f) any place within a radius of 1.6 km of any building, structure or other facility on lands under a surface lease, an agreement for sale or owned in fee simple.

Limitations

- (3) The right of access referred to in subsection (1) is subject to
- (a) any law of general application enacted for the purpose of public safety;
 - (b) any restriction established by the NWMB for the purpose of conservation;
 - (c) in the case of a critical habitat, wildlife sanctuary, special management area or park, any bilateral agreement between the Inuit affected and the relevant management agency; and
 - (d) any incompatible land use activity authorized in accordance with the Agreement, for only as long as is necessary to permit that land use to be exercised.

No limiting rights

(4) Pursuant to the Agreement, any term of an employment contract that attempts to limit an Inuk's rights of access to wildlife or harvesting of wildlife during the Inuk's leisure hours shall be null and void.

Other Treaty Rights

Inuit of Northern Quebec

12. (1) Pursuant to the Agreement, an Inuk of Northern Quebec with the proper identification may harvest wildlife within those marine areas and islands of the Nunavut Settlement Area traditionally used and occupied by the Inuit of Northern Quebec.

No licence or fee

(2) The right to harvest of an Inuk of Northern Quebec under subsection (1) may be exercised without any form of licence or the imposition of any form of tax or fee, if a total allowable harvest for a stock or population of wildlife is established and the harvesting does not exceed his or her adjusted basic needs level.

Aboriginal people of the NWT

13. (1) Pursuant to the Agreement, a member of an aboriginal people of the Northwest Territories with the proper identification may harvest wildlife within those areas of the Nunavut Settlement Area which that aboriginal people has traditionally used and continue to use for that purpose.

No licence or fee

(2) Pursuant to the Agreement, the right to harvest of a member of an aboriginal people of the Northwest Territories under subsection (1) may be exercised without any form of licence or the imposition of any form of tax or fee, if a total allowable harvest for a stock or population of wildlife is established, and the harvesting does not exceed his or her adjusted basic needs level.

Agreements

(3) Pursuant to the Agreement, the right to harvest of a member of an aboriginal people of the Northwest Territories is subject to any agreement between Inuit and that aboriginal people.

Member of Manitoba Band or Saskatchewan Band

14. (1) Pursuant to the Agreement, a member of a Manitoba Band or a Saskatchewan Band with the proper identification has a right to harvest wildlife for personal, family or community consumption, and may trap wildlife, within those areas of the Nunavut Settlement Area that his or her band has traditionally used and continues to use for the purposes of personal, family or community consumption.

No licence or fee

(2) Pursuant to the Agreement, the right to harvest and trap of a member of a Manitoba Band or a Saskatchewan Band under subsection (1) may be exercised without any form of licence or the imposition of any form of tax or fee, if a total allowable harvest for a stock or population of wildlife is established and the harvesting does not exceed his or her adjusted basic needs level.

Right of access

15. (1) Pursuant to the Agreement and subject to this Act, the persons referred to in sections 12, 13 and 14 have the free and unrestricted right of access for the purpose of harvesting wildlife to the areas of the Nunavut Settlement Area in which their respective rights apply, including, for greater certainty, critical habitats, wildlife sanctuaries, special management areas, parks and all lands vested in a municipal corporation.

Excluded areas and limitations

(2) The provisions of subsections 11(2) and (3) apply to the right of access described in subsection (1).

Other Rights and Related Matters

Assignees

16. An Inuk, the spouse of an Inuk, or a person cohabiting as the spouse of an Inuk, who is lawfully assigned a right to harvest a quantity of wildlife within the Nunavut Settlement Area under Sub-Section 5.7.34(a) of the Agreement, may harvest that wildlife in accordance with the assignment without a licence.

Proper identification

17. (1) Proper identification for the purposes of harvesting wildlife is

- (a) for an Inuk, the enrolment card issued to him or her under the Agreement;
- (b) for an Inuk of Northern Quebec, the enrolment card issued to him or her under the applicable land claim agreement;
- (c) for a member of an aboriginal people of the Northwest Territories, a prescribed identification card; and
- (d) for a member of a Manitoba Band or a Saskatchewan Band, a prescribed identification card.

Onus

(2) In exercising a right described in sections 10 to 16, the onus is on the person claiming the right to prove that he or she is eligible to exercise it.

Licence to Harvest Wildlife

Requirement for right or licence

18. (1) A person harvesting game and other prescribed wildlife requires a licence authorizing it, unless he or she has a right referred to in section 10, 12, 13, 14 or 16 to harvest that game or other prescribed wildlife without a licence.

Harvesting surplus wildlife

(2) For greater certainty, where a total allowable harvest for a stock or population of wildlife is established, a person requires a licence to harvest any wildlife from the surplus of that stock or population of wildlife.

Other Licences

Requirement for licence

19. (1) Where this Act or the regulations require a licence for an activity in relation to wildlife or habitat, no person shall engage in that activity without the licence.

Examples

- (2) Examples of the licences that may be required under this Act include
- (a) licences to harvest wildlife, including licences for persons other than Inuit with aboriginal rights;
 - (b) licences to possess wildlife;
 - (c) licences to traffic in wildlife and the meat of wildlife;
 - (d) licences to tan raw pelts or hides;
 - (e) licences to operate a commercial taxidermy;
 - (f) licences to operate a fur or game farm;
 - (f.1) licences to act as big game outfitters;
 - (g) licences to act as a big game guide;
 - (h) licences to conduct a harvesting course;
 - (i) licences in relation to a species at risk;
 - (j) licences to import wildlife;
 - (k) licences to export wildlife;
 - (l) licences to conduct research in relation to wildlife or habitat;
 - (m) licences to conduct wildlife tours and other activities;
 - (n) licences to use a weapon, equipment, technique, procedure or activity that would otherwise be contrary to this Act, the regulations or an order; and
 - (o) any other licence, established by the regulations, to engage in an activity related to wildlife or habitat.

Multiple activities

(3) A licence may be established or issued that authorizes more than one activity in relation to wildlife or habitat. S.Nu. 2005,c.12,s.2.

Exceptional Activities

Species at risk licence

20. (1) The Superintendent may issue a licence authorizing a person to engage in an activity for education or research that is otherwise prohibited under this Act in respect of an extinct species or a listed species, if

- (a) the activity is related to the conservation of the species and is conducted by a scientist, *Qaujimanilik/Thumatuyuk*, educator or other person having the appropriate expertise to conduct that activity;
- (b) the activity benefits the species or is required to enhance its chance of survival in the wild; or
- (c) the activity is required for national security, public health or public safety.

Pre-conditions

(2) A licence may only be issued under subsection (1) if the activity is authorized under

- (a) the general authority of a recovery policy or management plan approved by an accepted decision of the NWMB; or
- (b) the specific authority of an accepted decision of the NWMB made after the applicant has demonstrated that
 - (i) all reasonable alternatives to the activity that would reduce the impact on the species have been considered and the activity being authorized is the best among the alternatives, after considering relevant ecological, scientific, Inuit *Qaujimajatuqangit*, technological, and socio-economic factors,
 - (ii) all feasible measures will be taken to minimize the impact of the activity on the species, including its critical habitat and the abodes of the members of the species, and
 - (iii) the activity will not jeopardize the survival or recovery of the species.

Terms and conditions

(3) A licence issued under subsection (1) must contain any terms and conditions governing the activity necessary to

- (a) protect the species;
- (b) minimize the impact of the authorized activity on the species; or
- (c) provide for the recovery of the species.

Notice to HTO

(4) The Superintendent shall give notice of a licence issued under subsection (1) to any HTO in the locality where the activity authorized under the licence is to take place.

Review

(5) If the status of a listed species changes, the NWMB must review any licence issued under subsection (1) in respect of that species and decide whether the licence should be cancelled, suspended or amended.

Special exemptions

21. (1) The Superintendent may, by licence or order, authorize the use of a weapon, equipment, technique or procedure, or the conduct of an activity, that would otherwise be contrary to this Act, the regulations or an order, where

- (a) it is necessary to implement an accepted decision of the NWMB;
or
- (b) the Superintendent considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Authorized persons

(2) Only a conservation officer, wildlife guardian, scientist, *Qaujimanilik/Thumatuyuk*, or a person acting under their authority, may be authorized under subsection (1).

Notice to HTO

(3) The Superintendent shall give notice of a licence or order issued under subsection (1) to any HTO in the locality where the activity authorized under the licence or order is to take place. S.Nu. 2005,c.12,s.3.

Application for Licence

Application requirements

22. (1) An applicant for a licence must

- (a) make an application in the form and manner approved by the Minister;
- (b) provide the prescribed information and the prescribed fee for that licence; and

- (c) provide such additional information as the person issuing the licence may reasonably require to determine whether the application should be granted or refused and the appropriate conditions to attach, if any.

Onus

(2) In an application for a licence, the onus is on the applicant to prove that he or she is eligible to hold the licence.

Children

(3) A child who has not attained the age of 16 years is ineligible to hold a licence, unless

- (a) the child has attained the age of 12 years; and
- (b) the child's parent or guardian endorses the application for the licence.

General grounds of ineligibility

(4) In addition to any eligibility criteria established under this Act, a person is ineligible to hold a licence if the person has,

- (a) within one year before the day the application for the licence is made, failed to comply with a reporting requirement under this Act; or
- (b) within two years before the day the application is made, been convicted of an offence under
 - (i) this Act,
 - (ii) the *Fisheries Act* (Canada),
 - (iii) the *Criminal Code* (Canada) respecting the use or possession of firearms while the person is harvesting wildlife,
 - (iv) the *Migratory Birds Convention Act* (Canada),
 - (v) the *Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act* (Canada), or
 - (vi) any law in Canada or in another country governing fish, wildlife, the environment or a species at risk.

If licence cancelled or suspended

(5) A person whose licence is suspended or cancelled is ineligible to hold the same or another licence until the period of suspension or cancellation expires.

Exemption

(6) On application, the Superintendent may exempt an applicant from ineligibility under paragraph (4)(b) if satisfied that

- (a) the offence was a minor infraction of the law; and
- (b) issuing the licence will not create an undue risk of harm to the public, wildlife or habitat.

Big game guide qualifications

23. (1) Pursuant to the Agreement, a licence for a big game guide may only be issued if the applicant is approved by a HTO in accordance with the qualifications for a big game guide established by the NWMB.

Classes of guides

(2) Different classes of big game guides may be established in the regulations and the qualifications for each class are to be established by the NWMB.

Harvesting furbearers in Nunavut Settlement Area

24. Pursuant to the Agreement and subject to Article 5 of the Agreement, only the following persons are eligible to be issued a licence to harvest furbearers within the Nunavut Settlement Area:

- (a) a person who held a valid General Hunting Licence on October 27, 1981, and who actually harvested furbearers in those areas in the Nunavut Settlement Area where that person desires to continue to harvest furbearers after the date of the ratification of the Agreement; and
- (b) a person whose licence application is approved and recommended by an HTO of the place where the applicant desires to harvest furbearers.

Issuing Licences

Issuance

25. (1) The Superintendent may issue any licence authorized or required under this Act.

Delegates

(2) The Superintendent may delegate the power to issue licences to one or more conservation officers.

No refunds

26. Subject to the regulations, no fee paid for a licence may be refunded unless the application for the licence is refused.

Vendors

27. (1) The Superintendent may enter into agreements with persons to authorize them to issue licences on behalf of the Government of Nunavut as a vendor and to receive remuneration for this purpose.

Issuance by vendor

- (2) Subject to this Act and the regulations, a vendor must
- (a) issue a licence to an applicant who has proved to the satisfaction of the vendor that he or she is entitled to hold the licence; or
 - (b) refer the application to a conservation officer in any case where the vendor doubts the eligibility or entitlement of the applicant.

Instructions

(3) A vendor shall comply with any applicable instructions issued by the Superintendent, as amended from time to time.

Fees held in trust

(4) Any fees collected by a vendor and owing to the Government of Nunavut are deemed to be held in trust for the Government of Nunavut.

Signature of holder

28. A person to whom a licence is issued shall, immediately upon receiving it, sign his or her name in the space provided for that purpose, and no licence is valid until it is so signed.

Terms and Conditions

Authority of licence

29. (1) A licence issued under this Act entitles the holder to do the things specifically authorized by the licence.

Terms and conditions

(2) A licence is subject to any terms and conditions made applicable to the licence by this Act or the regulations or imposed by the Superintendent.

Imposing terms and conditions

30. (1) The Superintendent may impose terms and conditions on a licence where

- (a) they are necessary to implement an accepted decision of the NWMB; or
- (b) the Superintendent considers them necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Examples

(2) Examples of the terms and conditions that may be imposed on a licence include limits on

- (a) the species to which the licence applies;
- (b) the geographical area to which the licence applies;
- (c) the time or season during which the licence applies;
- (d) the circumstances in which the licence applies;
- (e) the activities that may be performed, and the manner or method of performing them, under the licence; and
- (f) the number, sex, age or size of wildlife to which the licence applies.

Security

(3) An applicant for a licence may be required to furnish a form of security approved by the Minister to ensure

- (a) due observance of this Act and the regulations and any terms and conditions applicable to the licence; and
- (b) restoration of any habitat affected by the applicant's activities.

Harvesting furbearers

(4) A licence to harvest furbearers within the Nunavut Settlement Area issued on the recommendation of a HTO is subject to any terms and conditions imposed by the HTO.

Amendment of licence

- 31.** (1) The Superintendent may amend a previously issued licence, including
- (a) making it subject to new or additional terms and conditions; or
 - (b) modifying, removing or substituting terms and conditions to which the licence is subject.

Amendment

(2) The Superintendent may make the amendment for the purposes of subsection (1) where

- (a) it is necessary to implement an accepted decision of the NWMB;
or
- (b) the Superintendent considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Refusals

Mandatory refusal

- 32.** (1) A person with authority to issue a licence must refuse to issue it if
- (a) the applicant is ineligible to apply for, obtain or hold it; or
 - (b) the applicant fails to provide the required information, fee or security.

Discretionary refusal

(2) A person with authority to issue a licence may refuse to issue it to an applicant who is otherwise eligible if the applicant, within the previous two years,

- (a) committed an offence referred to in paragraph 22(4)(b) but was given an absolute or conditional discharge; or
- (b) had a licence in relation to wildlife or habitat cancelled or suspended in another jurisdiction.

Reasons

(3) The reasons for any refusal to issue a licence must be given to the applicant.

Notice

- 33.** (1) Before refusing to issue a licence respecting commercial activity on discretionary grounds, the person making the refusal shall
- (a) notify the applicant in writing that he or she is considering not issuing the licence;
 - (b) specify the reasons why he or she is considering not issuing a licence;
 - (c) invite the applicant to respond within the time specified in the notice; and
 - (d) consider any response from the applicant.

Decision

(2) The person referred to in subsection (1) shall render a written decision to issue or not to issue the licence, with reasons, within the later of 45 days after the receipt of the applicant's response under paragraph (1)(c) or on the expiry of the time specified in the notice.

Expiry and Nullity

Expiry date

34. A licence expires on June 30 following the date of its issue, unless otherwise specified in the licence or the regulations.

Void licences

- 35.** (1) A licence is void if
- (a) it is obtained through a false or misleading representation;
 - (b) it is issued contrary to this Act or the regulations;
 - (c) it is issued in reliance on a licence that is void under paragraph (a) or (b);
 - (d) it is issued to a person who is ineligible to hold it;
 - (e) it is tampered with, altered or mutilated in any manner; or
 - (f) it is void for another prescribed reason.

Surrender of void licence

(2) On the request of a conservation officer, a person holding or in possession of a licence shall surrender it if it is void or if the officer believes on reasonable grounds that it is void.

Transfer or Assignment of Rights

Not transferable

36. (1) A licence or tag is not transferable unless the transfer is authorized by the regulations.

Change in corporate ownership

(2) Where a licence is held by a corporation, any transfer of voting control of the corporation is deemed to be a transfer of the licence and if the licence was not authorized to be transferred when the transfer of control occurred, the licence is deemed to be cancelled.

No transfers

(3) No person who holds a licence or tag that is not transferable shall purport to transfer it, or any rights or privileges that it carries, to any other person.

Solicitation

(4) No person shall solicit or receive a transfer of a licence or tag that is not transferable, or any rights or privileges that it carries.

Assignment of share of total allowable harvest

37. Pursuant to the Agreement, a person authorized to harvest wildlife under a licence may be assigned part or all of a share of the total allowable harvest by an Inuk, RWO or HTO under Sub-Section 5.7.34(b) of the Agreement.

Rights and restrictions for assignees

38. (1) An assignee referred to in section 16 may exercise the assigned right to harvest a quantity of wildlife with the same rights and subject to the same restrictions as the assignor.

Conditions

(2) Pursuant to the Agreement, an assignment of a share of a total allowable harvest within the Nunavut Settlement Area acquired under Section 5.6.39 or 5.6.45 to 5.6.47 of the Agreement is subject to any terms or conditions under which access to the share was acquired.

Evidence of assignment

39. (1) To be effective for the purpose of this Act, an assignment under section 16 or 37 must be evidenced by a document containing the prescribed information.

Exception

(2) Notwithstanding subsection (1), a verbal assignment under section 16 or 37 may be effective for a temporary period not exceeding 48 hours if

- (a) it is impracticable to create the document referred to in subsection (1) because of urgent and unusual circumstances;
- (b) the assignor and assignee agree upon the prescribed information; and
- (c) the assignor creates the document before the end of the 48 hour period.

Time limit

(3) Pursuant to the Agreement, any assignment under section 16 or 37 for a term, including any option for renewal, is void if it exceeds

- (a) one year in the case of an assignment by an Inuk; or
- (b) three years, in the case of an assignment by a HTO or RWO.

Licence to other person

(4) Pursuant to the Agreement, an assignee under section 37 who is an Inuk, by descent or custom, is entitled to be issued a licence to harvest wildlife without charge, upon showing the document evidencing the assignment and if he or she is otherwise eligible to hold it.

Registration of assignment

40. (1) An assignee under section 16 or 37 shall register the assignment in accordance with the regulations.

Time of registration

(2) The assignee shall register the assignment before harvesting wildlife pursuant to the assignment or, if that is impracticable, as soon as possible afterwards.

Distribution of copies

(3) The Superintendent and each RWO and HTO shall ensure that copies of documents evidencing assignments are promptly distributed to each other in accordance with the regulations.

Issuance of tag to assignee

41. Where tags are required by the regulations for the harvesting of wildlife, a person who is lawfully assigned a right to harvest a quantity of wildlife under section 16 or 37 is entitled to receive a tag for that quantity after the assignment is properly registered.

Evidence of Authority

Carrying licence

42. (1) A person who requires a licence under this Act to harvest wildlife, or to engage in any other activity, shall carry or possess a copy of the licence while harvesting that wildlife or engaging in that activity.

Carrying identification

(2) An Inuk and any other person exercising his or her right to harvest wildlife under section 12, 13 or 14 shall carry his or her proper identification while harvesting that wildlife.

Copy of assignment

(3) Subject to subsection 39(2), an assignee exercising his or her right to harvest a quantity of wildlife under section 16 or 37 shall carry a copy of the document evidencing the assignment while harvesting the wildlife.

Public display of licence

(4) The holder of a licence in respect of a commercial activity shall either publicly display the licence or, where that is impracticable, show the licence to any client or customer who asks to see it.

Request for production of document

43. (1) Where this Act requires a person engaging in an activity to carry a licence or other document, he or she shall produce the licence or document upon the request of a conservation officer.

Cease activity

(2) Where the licence or other document is not produced when the conservation officer requests it and the conservation officer has reasonable and probable grounds to believe that the person is acting without authority, the person shall cease the activity immediately upon the request of the conservation officer.

Delay in production of document

(3) A person is not guilty of an offence under subsection (1), if within 48 hours after the request, the person

- (a) produces the required licence or other document to the conservation officer or a designate of the officer; or
- (b) proves to the satisfaction of the conservation officer or a designate of the officer that he or she held the licence or other document at the time the request for it was made by the officer.

Cancellation and Suspension

Cancellation for error

44. (1) The Superintendent may cancel any licence issued in error.

No compensation

(2) The holder of a licence issued in error has no right to compensation in respect of the cancellation.

Loss of qualification

45. If the holder of a licence becomes ineligible to hold it, the person's licence is automatically suspended for the period of ineligibility.

Power to cancel or suspend

46. (1) The Superintendent may cancel or suspend a licence if he or she considers that

- (a) the licence holder has failed to comply with this Act, the regulations, an order or the licence, including any applicable term or condition;
- (b) the cancellation or suspension is necessary or advisable for public health or public safety; or
- (c) subject to section 156(3), the cancellation or suspension is in the public interest.

Reinstatement

(2) The Superintendent may reinstate a cancelled or suspended licence if he or she considers that there are no longer any grounds for a cancellation or suspension.

Notification

47. (1) The Superintendent shall, prior to cancelling or suspending a licence, send a written notice to the licence holder

- (a) advising the holder that the licence is being reviewed and may be cancelled or suspended;
- (b) stating the reasons for doing so;
- (c) inviting the holder to respond and within the time specified in the notice; and
- (d) where the Superintendent considers it appropriate, setting a time and place where the holder may make representations to the Superintendent and present evidence.

Review

(2) The Superintendent shall conduct such review of the licence as the Superintendent considers appropriate, including the holding of hearings and the consideration of representations from any affected person.

Decision

(3) The Superintendent shall, after the review or, where a response is not received from the holder, on the expiry of the time specified in the notice, render a written decision whether to suspend or cancel the licence, and provide the reasons for the decision.

Service

(4) Notice of the decision referred to in subsection (3) must be served on the licence holder.

Effective date

(5) The cancellation or suspension of a licence takes effect immediately, or on a later date specified by the Superintendent.

By justice of the peace or judge

48. A justice of the peace or judge when convicting a person of an offence under this Act, or granting an absolute or conditional discharge in respect of the offence, may

- (a) cancel any licence held by that person;
- (b) suspend any licence held by that person for a specified period of time; and
- (c) prohibit the issue or renewal of any licence to that person within a period of time not exceeding five years.

Surrender

49. (1) When a licence is cancelled or suspended, the holder of it shall without delay surrender it, and any tags associated with it, to the Superintendent or the court, as the case may be.

Limitation

(2) The Superintendent has no authority to restore or revoke a cancellation or suspension imposed by a justice of the peace or judge.

Revocation of allocation

50. A person holding a tag shall, without delay, return it to the person who issued it if

- (a) the tag was issued to regulate the allocation of wildlife for harvesting; and
- (b) the allocation lapsed or was cancelled or revoked.

Judicial Review

Exclusive decision

51. (1) The Superintendent has exclusive jurisdiction under sections 32, 46 and 47 to examine, inquire into, hear and decide all matters and questions related to the cancellation of, suspension of, or refusal to issue a licence and that decision is final and conclusive and not open to question or review in any court.

Natural justice

(2) Except where there has been a denial of natural justice or an excess of jurisdiction,

- (a) no cancellation or suspension of a licence by the Superintendent may be restrained by injunction, prohibition or other process or proceedings in any court; and
- (b) no action may be maintained or brought against the Superintendent in respect of any act or decision done or made by him or her in the honest belief that it was within the Superintendent's jurisdiction.

No appeals

52. No person has a right to appeal a decision to refuse to issue or renew a licence or a decision of the Superintendent to suspend or cancel a licence.

No stay

53. An application for judicial review of a decision under this Act does not operate as a stay or suspend the operation of the decision unless the judge hearing the matter decides otherwise.

Respect for Rights and Authorities

Improper applications

54. (1) No person shall apply for, obtain or hold a licence, or a document that purports to be a licence, knowing that he or she is ineligible to hold that licence.

Single licence

(2) No person shall apply for or hold more than one licence of the same type at the same time, unless replacing a lost licence.

Possession

(3) No person, other than a person with authority to issue licences, shall possess a licence or other prescribed document that

- (a) does not identify the holder of it;
- (b) is undated or dated earlier than its date of issuance;
- (c) is incomplete in any material respect;
- (d) purports to be but is in fact not a licence or other prescribed document;
- (e) has been defaced or altered; or
- (f) is void because it was obtained through a false or misleading representation.

Use of void licence

(4) No person shall use, display or allow to be displayed a licence that is void.

Terms and conditions

(5) No person shall contravene any of the terms or conditions of his or her licence.

Wrongful use of licence or tag

55. (1) No person shall

- (a) allow his or her proper identification to be used or carried by another person while that other person is harvesting wildlife; or
- (b) use or carry a licence or tag that was issued to someone else.

Defacement or alteration of licence

(2) No person shall deface or alter a licence, tag, proper identification or other prescribed document.

Issuing incomplete licences

56. (1) No person shall issue a licence that is incomplete in any material respect.

Possessing blank licence

(2) No person, other than a person with authority to issue licences, shall have in his or her possession a licence on which the name of the licence holder is left blank.

False statements

- 57.** (1) No person shall knowingly make a false or misleading statement
- (a) in an application for a licence;
 - (b) on a licence issued to him or her;
 - (c) in a book, record, certificate, report or return to be made, kept or supplied under this Act; or
 - (d) to the Superintendent or a conservation officer when required to provide the information under this Act.

Alteration

(2) No person shall obliterate, alter, imitate or duplicate a stamp, tag, seal, brand, mark or signature that is placed on wildlife under this Act.

False or misleading assignments

(3) No person shall, for the purpose of this Act, knowingly create a document purporting to evidence an assignment under the Agreement that contains any false or misleading information.

PART 3

PROPER CONDUCT ON THE LAND

Respect for the Act

Compliance with Act

58. (1) Every person harvesting wildlife shall act in accordance with this Act.

Other requirements

(2) Nothing in a licence exempts a person from complying with any other enactment or law or any other requirement to obtain a licence or consent in respect of an activity.

Responsibility of parent or guardian

(3) A parent or guardian who endorsed an application for a licence to harvest game issued to a child under 16 years of age or who accompanies a child while harvesting game shall ensure that the child complies in all respects with this Act and the regulations and orders made under it.

Authority to harvest

- 59.** (1) No person shall harvest game or other prescribed wildlife unless he or she
- (a) has a right referred to in section 10, 12, 13, 14 or 16 to harvest that game or other prescribed wildlife without a licence; or
 - (b) holds a licence to harvest that game or wildlife.

Additional prohibition

(2) In addition to any other applicable prohibition, no person shall do anything requiring the authority of a licence under the purported authority of a licence that is void, cancelled or suspended.

Respect for Other Persons

Obstruction

60. (1) No person shall interfere with or obstruct a person lawfully engaged in harvesting wildlife or in guiding.

Interfering with traps

(2) No person shall remove, spring or otherwise interfere with any trap lawfully set by another person to harvest furbearers, without the consent of that other person.

No offence

(3) A conservation officer or wildlife guardian acting in the course of his or her duties is not in contravention of this section.

Impersonation

61. No person shall, with intent to deceive, impersonate a conservation officer or wildlife guardian.

Respect for Species at Risk

Extinct or extirpated species

62. (1) No person shall

- (a) harvest, harm or interfere with any part of an extinct or extirpated species;
- (b) traffic in a part of an extinct or extirpated species or a product that purports to contain a part of an extinct or extirpated species; or
- (c) possess a part of an extinct or extirpated species or a product that purports to contain a part of an extinct or extirpated species.

Exception

(2) Subsection (1) does not apply to a person who is engaging in an activity specifically authorized by a species at risk licence or a permit issued under the *Nunavut Archaeological and Palaeontological Sites Regulations* (Canada).

Interim protection for endangered or threatened species

63. (1) From the day that a species is designated as endangered or threatened until the day that an order made under section 133 comes into force, no person shall

- (a) harvest, harm, harass, disturb or interfere with a member of the species;
- (b) traffic in a member of the species or a product that purports to contain a member of the species; or
- (c) possess a member of the species or a product that purports to contain a member of the species.

Exception

(2) Subsection (1) does not apply to a person who is engaging in an activity specifically authorized by a species at risk licence or a permit issued under the *Nunavut Archaeological and Palaeontological Sites Regulations* (Canada).

Lawful possession

- 64.** The possession of a part of an extinct or extirpated species or a member of an endangered or threatened species by a person is not unlawful under this Act if
- (a) it was in the person's possession before the species was listed as endangered or threatened;
 - (b) it is used for ceremonial or medicinal purposes by an aboriginal person, or it is part of ceremonial dress used for ceremonial or cultural purposes by an aboriginal person;
 - (c) it was acquired legally by the person in another country and imported legally into Canada;
 - (d) it was acquired by the person by succession from someone who would be entitled to possess it under this Act;
 - (e) it was acquired by the person under circumstances that would afford him or her a due diligence defence;
 - (f) the person donated it to the Government of Nunavut and possessed it only for as long as was necessary to make the donation;
 - (g) the person is, or is acting on behalf of, a museum, zoo, educational institution, scientific society or government and the person acquired it from someone who was entitled to possess it under this Act; or
 - (h) the circumstances of the possession are otherwise exempt by the regulations.

Respect for Habitat

Habitat protection

65. (1) No person shall contravene a regulation or order regulating or prohibiting activities in respect of a critical habitat, wildlife sanctuary or special management area.

No alteration or destruction

(2) No person shall, without legal justification, substantially alter or damage or destroy any habitat.

Prohibited activities in critical habitats

- 66.** (1) Subject to subsection (2), no person shall at any time, within a critical habitat,
- (a) build, rebuild or add to a structure, road, path or track;
 - (b) engage in any exploration, prospecting or claims staking related to metals, minerals, oil or gas;
 - (c) harvest, remove or destroy a member of the endangered or threatened species;

- (d) introduce a new species of wildlife;
- (e) store, dispose of or allow to accumulate any waste;
- (f) alter, destroy or damage the critical habitat;
- (g) release or deposit a substance or thing that is harmful to any wildlife or habitat;
- (h) destroy, damage, disturb or interfere with an abode of a member of the endangered or threatened species;
- (i) contravene any regulation made with respect to the critical habitat;
- (j) use a motorized vehicle or other conveyance;
- (k) use motorized equipment; or
- (l) land an aircraft.

Exceptions

(2) An order made under section 133 or a regulation made under subsection 139(3) may provide exemptions from the prohibition in subsection (1) for activities that will not adversely affect the critical habitat or the endangered or threatened species.

Littering

67. No person shall deposit waste or litter in or near any habitat.

Respect for Wildlife

Maximum harvest amount

68. No person shall harvest wildlife in excess of the amount allocated to him or her or allowed under this Act.

Geographic control

69. No person shall harvest any wildlife contrary to any licence, regulation or order that controls or prohibits the person from harvesting in relation to an area or geographic location.

Wildlife control

70. (1) No person shall harvest any wildlife contrary to any licence, regulation or order that regulates or prohibits the person from harvesting in relation to a characteristic of the wildlife, including the sex, age, species or size of wildlife.

No removal of evidence

(2) Where wildlife is regulated by reference to a characteristic, no person harvesting that wildlife shall, until authorized by the regulations,

- (a) remove, mutilate or destroy any prescribed part of the wildlife that evidences the characteristic; or
- (b) possess any part of the wildlife that has been subjected to any act in contravention of paragraph (a).

Swimming big game

71. No person, other than an Inuk, shall hunt big game while it is swimming.

Bird's eggs

72. (1) Unless lawfully harvesting eggs, no person shall injure, molest or destroy an egg of a bird.

Bird's nests

- (2) Unless lawfully harvesting down, no person shall injure, molest or destroy
- (a) the nest of a bird when the nest is occupied by a bird or its egg; or
 - (b) the nest of any bird of prey or prescribed bird.

Significant disturbance

73. (1) No person shall, unless authorized by a licence,

- (a) engage in any activity, other than harvesting, that is likely to result in a significant disturbance to a substantial number of wildlife; or
- (b) break into, destroy or damage any abode of a bear, fox, beaver, muskrat, weasel, wolf or wolverine outside any municipality or prescribed area.

Exception

- (2) A person is not guilty of an offence under paragraph (1)(b) if the activity
- (a) is in respect of a wild animal other than a bear; and
 - (b) is specifically authorized by a licence or is incidental to lawful trapping.

Pursuit of wild animal

74. (1) No person shall chase, weary, harass or molest a wild animal.

Incidental to harvesting

- (2) A person does not contravene subsection (1) by lawful harvesting.

Dangerous animals

(3) Notwithstanding anything else in this Act, a person may use a vehicle to chase a dangerous animal away from a dwelling, municipality, camp or settlement or its immediate vicinity, if it is necessary to defend life or property and may avoid killing the animal.

Humane treatment

75. Any person harvesting a wild animal shall respect the principles of *Iliijaqsuittailiniq/Kimaitailinik* and *Sirliqsaagtittittailiniq/Naklihaaktitihuiluhi*.

Wastage

Retrieval of dead or wounded game

- 76.** (1) A person who wounds or kills game shall make every reasonable effort to
- (a) retrieve the game and, if it is alive, to kill it;
 - (b) include it in any limit on the amount of wildlife the person may harvest; and
 - (c) take the edible portions of the carcass to the person's dwelling or a place where they can be safely stored or processed.

Surattittailimaniq/Hugattittailimanik

- (2) No person shall waste, destroy, abandon or allow to spoil
- (a) the edible portions of game;
 - (b) a raw pelt or raw hide of a prescribed furbearer; or
 - (c) any other prescribed part of wildlife.

Exceptions

- (3) Exceptions to subsections (1) and (2) may be prescribed.

Prescribed standards

- 77.** (1) Standards of what constitutes wastage, abandonment and the edible portions of game may be prescribed.

RWO and HTO standards

- (2) A RWO and HTO may, by by-law, establish standards of what constitutes wastage, abandonment and the edible portions of game for their respective members.

Inedible meat

- (3) Subject to any standards made under this section, all portions of a bear, coyote, wolf or wolverine are deemed to be inedible for the purpose of this Act.

Feeding meat to animals

- 78.** (1) Subject to this section, no person shall feed the edible portions of game to any domestic animal or to a captive wild animal.

Exception

- (2) A person may feed the edible portions of game to dogs, if
- (a) the dogs are being used in the course of transportation when they are fed and are at least eight km from a municipality or settlement; or
 - (b) the person is a member of a HTO that has, by by-law, authorized its members to feed that meat to dogs.

Captive wild animal

- (3) A person may feed the edible portions of game to a captive wild animal when authorized by a licence.

Types, Methods and Technologies of Harvesting

General right

79. (1) Pursuant to the Agreement, an Inuk or an assignee under section 16 may employ any type, method or technology to harvest pursuant to the terms of Article 5 of the Agreement that does not

- (a) conflict with a non-quota limitation on the type, method or technology of harvest contained in a regulation or order implementing an accepted decision of the NWMB made for a valid conservation purpose under Sections 5.6.48 to 5.6.51 of the Agreement;
- (b) conflict with laws of general application regarding the humane killing of wildlife, public safety or firearms control; or
- (c) result in harmful alteration to the environment.

Area of right

(2) The right under subsection (1) applies throughout Nunavut.

General prohibitions

80. (1) No person shall use or have the following in his or her possession while harvesting wildlife:

- (a) any poison;
- (b) a set gun;
- (c) an automatic firearm capable of firing more than one projectile during one pressure of the trigger;
- (d) any tracer ammunition;
- (e) a projectile containing any explosive material;
- (f) any bait, unless it is for harvesting furbearers; or
- (g) any equipment or any type, method or technology of harvesting prohibited by the regulations.

Prohibited weapons and methods for big game

(2) No person shall harvest big game with

- (a) rim-fire ammunition;
- (b) ammunition of less than 5.56 mm in diameter;
- (c) ammunition with an empty cartridge case measuring less than 38 mm in length;
- (d) ammunition containing non-expanding or steel-jacketed bullets;
- (e) a bow with less than 20 kg draw weight at 700 mm draw; or
- (f) an arrow without a broad head point width of at least 25 mm at its widest point or an un-barbed three bladed bodkin head.

Compliance with regulations

81. (1) A person harvesting wildlife shall comply with any regulations governing

- (a) the possession or use of equipment while harvesting wildlife; or
- (b) the types, methods and technologies of harvesting wildlife.

Regulations

(2) The Commissioner in Executive Council may make regulations authorising, prohibiting or restricting, with or without conditions, any type, method or technology of harvesting wildlife or the use or possession of equipment while harvesting wildlife where

- (a) the Minister considers it necessary or advisable for the purposes of ensuring the humane killing of wildlife or public safety; or
- (b) it is necessary to implement an accepted decision of the NWMB.

Using certified traps

- 82.** (1) Subject to the regulations, no person shall harvest game using a trap unless
- (a) the trap is certified by the Minister, or another competent authority in Canada, in accordance with the *Agreement on International Humane Trapping Standards*, for use on the species of game being harvested; or
 - (b) the trap is certified by the Minister, pursuant to paragraph (2)(b), for use on the species of game being harvested.

Certifying traps

- (2) The Minister may by order, with or without conditions,
- (a) certify traps, in accordance with the *Agreement on International Humane Trapping Standards*; and
 - (b) certify traps, with the advice of the elders committee established under subsection 160(1), as humane and safe for use on species of game that are not subject to the *Agreement on International Humane Trapping Standards*.

Checking traps

(3) A person who uses live capture traps to harvest furbearers shall regularly check each trap to collect any harvested wildlife in accordance with the regulations.

Rendering traps safe

(4) A person who uses traps to harvest furbearers shall remove, spring or render harmless every trap used by the person before or on the last day of each open time or season and shall not set them before the first day of any applicable open time or season.

Possession of Wildlife

Possession limits

83. No person shall possess wildlife in excess of the quantity allowed under this Act.

Live wild animal

84. No person shall possess, keep captive or feed any live wild animal, other than a prescribed animal, except in accordance with the regulations.

Possession of dead wild animal

85. (1) Subject to subsection (2), no person shall have a dead wild animal in his or her possession unless

- (a) the person lawfully harvested the wild animal;
- (b) the person lawfully acquired it from a person who lawfully harvested it;
- (c) the person has a licence entitling them to possess the wild animal;
- (d) the wild animal was preserved or prepared by a taxidermy process after being lawfully harvested;
- (e) the person lawfully possessed the wild animal under the *Wildlife Act* as it existed before the coming into force of this Act; or
- (f) the possession is exempted by the regulations.

Exceptions

(2) Subsection (1) does not apply to

- (a) any lawfully harvested pelts or hides; or
- (b) any part or product of a wild animal that has been subjected to a manufacturing process, including processed food, garments, jewellery or art, unless the animal from which the part or product originated was harvested unlawfully.

No entitlement

(3) A person who acquires possession of unlawfully harvested wildlife is not entitled to retain possession of it.

Tags

86. No person shall possess a wild animal, for which a tag is required by the regulations, without complying with the regulations respecting the holding or affixing of tags. S.Nu. 2005,c.12,s.4.

Use of Vehicles or Other Conveyances

Prohibited uses

87. (1) Unless authorized under subsection (2) or the regulations, no person shall

- (a) harvest game from a vehicle or other conveyance;
- (b) discharge a weapon within or from a vehicle or other conveyance;
- (c) have in or on a vehicle or other conveyance a firearm with a live shell or cartridge in the barrel, the breech, the firing compartment or an attached magazine, or a crossbow loaded with a quarrel;
- (d) use a vehicle or other conveyance to harass wildlife; or
- (e) use a vehicle or other conveyance as a weapon to harvest wildlife.

Authorized vehicles and other conveyances

(2) Paragraphs (1)(a), (b) and (c) do not apply to a person who is

- (a) on a snowmobile;
- (b) on a sled pulled by dogs;
- (c) on a prescribed all-terrain vehicle; or
- (d) in a boat, other than a barge, of less than 15 m in length.

Polar bear harvest

(3) No person, other than an Inuk or an assignee exercising his or her right to harvest a quantity of wildlife under section 16, shall harvest a polar bear by any vehicle or other conveyance, except a sled pulled by dogs. S.Nu. 2005,c.12,s.5.

Spotting aircraft

88. (1) No person shall use an aircraft

- (a) to spot the location of wildlife and communicate that location from the air to a person on land or water for the purpose of harvesting wildlife; or
- (b) to assist in the harvesting of wildlife in any other manner prohibited by the regulations.

Helicopters

(2) No person shall use a helicopter to transport wild animals or any person or thing for the purpose of harvesting wild animals unless

- (a) the use is authorized by a licence issued with the approval of the local HTO and on condition that the use will not disturb wildlife or the harvesting activities of other persons; or
- (b) the use is justified because of an emergency.

12 hour rule

(3) No person, other than an Inuk, shall hunt big game within 12 hours of disembarking from an aircraft, if the aircraft

- (a) belonged to the person and was used for the purpose of transporting the person for hunting; or
- (b) was chartered for the purpose of transporting the person or any others for hunting.

Dangerous Practices and Public Safety

Dangerous harvesting

89. (1) No person shall harvest wildlife

- (a) in a manner that endangers other persons; or
- (b) without due regard for the safety or property of other persons.

Prohibited hunting and shooting

(2) For greater certainty, subsection (1) prohibits a person from

- (a) hunting while impaired by alcohol or another drug;
- (b) hunting with a weapon that is in an unsafe condition;

- (c) discharging a weapon from, or causing the projectile from a weapon to pass along or across, the travelled portion of a trail, road or highway used by the public or to which the public has a right of access;
- (d) discharging a firearm within one kilometre of a dwelling or building, unless the person has the permission of the occupants to do so; or
- (e) discharging a weapon within a prescribed no shooting area.
S.Nu. 2018,c.8,s.11(1)(c).

Feeding wild animal

90. (1) No person shall intentionally feed a wild animal.

Use of attractants

(2) No person shall deposit or place in, on or about a place an attractant, if there is a reasonable likelihood that it would endanger a person, a wild animal or a domestic animal.

Exception

- (3) This section does not apply to
- (a) the drying or caching of meat, hides or pelts in accordance with prescribed standards or standards established by a HTO for its members;
 - (b) a person lawfully harvesting furbearers with bait;
 - (c) a person lawfully feeding captive wildlife; or
 - (d) any other prescribed circumstance.

No release of animals

91. (1) No person shall release a captive wild animal or a domestic animal, or allow it to escape to

- (a) run at large in a critical habitat, wildlife sanctuary or special management area;
- (b) run at large and harass wildlife; or
- (c) run at large in a way that is likely to endanger a person, property, wildlife or habitat.

Invasive species

(2) No person shall release a member of a species into a habitat in which that species does not belong or never naturally occurred.

Recovery

(3) Any person who contravenes subsection (1) or (2) shall make every effort to recover the animal or member of the species.

Liability

(4) Any person who contravenes subsection (1) or (2) is not entitled to any compensation if the animal or member of the species is harmed or destroyed and is liable to the Government of Nunavut for

- (a) any loss or damage to wildlife or habitat caused by the release; and
- (b) all costs incurred in pursuing, recovering, holding or destroying the animal or member of the species.

Exception

(5) This section does not apply to a person authorized by a licence to release the wild animal or member of the species.

Dangerous animals

92. A conservation officer, or a person acting under the instructions of a conservation officer, may at any time and by any means kill or capture

- (a) a domestic animal that is hunting, pursuing, molesting or harassing wildlife or that is likely to harm persons, property, wildlife or habitat;
- (b) a wild animal that is likely to harm persons or property; or
- (c) a wild or domestic animal that is reasonably believed to be wounded or diseased.

Dangerous wildlife protection

93. (1) If a conservation officer believes on reasonable grounds that dangerous wildlife is or may be attracted to any land or premises, the conservation officer may

- (a) enter and search the land or premises; and
- (b) if there is risk to the safety of any person because an attractant is attracting or could attract dangerous wildlife to the land or premises, order the owner, occupier or person in charge of that land or premises to contain, move or remove the attractant within a reasonable period of time specified in the order.

Verbal order

(2) An order under subsection (1) may be made verbally, but must be confirmed in writing and delivered to the person affected within 48 hours.

Dwelling

(3) Any entry and search of a dwelling must be authorized by a warrant and any dangerous wildlife protection order in respect of a dwelling must be issued by a justice of the peace or judge.

Exception

- (4) Notwithstanding subsection (1), an order may not be made in respect of
 - (a) a person who is lawfully trapping; or
 - (b) a facility lawfully operated by a municipal corporation or a settlement corporation for the disposal of waste.

Compliance

(5) A person to whom an order under this section is made must comply with the order within the period of time specified in the order.

Remedial measures

(6) Where any person fails to take any measures required under subsection (1), a conservation officer may take those measures or cause them to be taken.

Closing of areas to the public

94. (1) If a conservation officer believes on reasonable grounds that public safety is in immediate jeopardy in any area owing to the presence of a wild animal or domestic animal, the officer may order that the area be closed to the public for the period specified in the order or until such time as the officer believes that there is no longer any immediate jeopardy.

Stop harvesting

(2) If a conservation officer believes on reasonable grounds that public safety is in immediate jeopardy in any area owing to any harvesting contrary to section 89, the officer may order that the harvesting cease for the period specified in the order or, if no such period is specified, until such time as the officer believes that there is no longer any immediate jeopardy.

Notice of closure

(3) The conservation officer shall endeavour to give notice of the closure or reopening, as the case may be, by whatever method the officer considers most appropriate to

- (a) the public who may be affected;
- (b) the Superintendent;
- (c) the NWMB; and
- (d) any affected HTO.

Compliance with order

(4) No person shall, without the written authorization of a conservation officer, contravene an order made under this section.

Temporary effect

(5) An order made under this section expires and is no longer effective 48 hours after the time it was made, subject to a review by the NWMB under section 158.

Surrender of weapons and other articles

95. (1) A conservation officer may request a person to surrender any licence, tag, equipment, weapon, vehicle or other conveyance in his or her possession, if the officer has reasonable and probable grounds to believe that the person is affected by alcohol or another drug in his or her ability to harvest a wild animal or handle a weapon safely and responsibly.

Compliance with request

(2) Upon a request being made under subsection (1), the person shall not harvest wildlife with a weapon and shall immediately surrender to the conservation officer those things referred to in subsection (1).

Return of things

(3) A conservation officer must return the things surrendered under subsection (2) to the person no later than 48 hours after the surrender at which time the person may resume harvesting, unless the person, at an earlier time, satisfies a conservation officer having charge of the matter that his or her ability to harvest or handle a weapon safely and responsibly is not affected by alcohol or another drug. S.Nu. 2018,c.8,s.11(1)(c).

Public health and public safety

96. A person engaging in an activity related to public health or public safety that is specifically authorized by or under any other enactment is not liable for any contravention under this Act.

Emergency Kills

Defence of life or property

97. (1) Notwithstanding anything in this Act, a person may kill wildlife if it is necessary to preserve a human life or to protect a person's property.

Prevent starvation

(2) Notwithstanding anything in this Act, a person may harvest and consume wildlife where it is necessary to prevent a person's starvation.

Mismanagement not an excuse

(3) This section shall not be construed as providing a lawful excuse to a person who kills wildlife as a result of his or her mismanagement or contravention of this Act.

Payment

98. The Superintendent may authorize payment in the prescribed amount and manner to any person in consideration for that person transporting or handling wildlife

- (a) that has been lawfully killed to preserve a person's life or property;
- (b) that the person reasonably believes to be diseased; or
- (c) that the person finds dead in the absence of anyone purporting to have lawful possession of it.

Harvesting Times or Seasons

Prohibition

99. No person shall harvest wildlife contrary to any regulation or order that controls or prohibits the person from harvesting in relation to a time or season for that wildlife, unless specifically authorized by a licence.

Information and Reporting

Reporting emergency kills, etc.

100. (1) Every person who acquires, wounds or kills big game to protect a person's life or property shall, as soon as practicable,

- (a) report it to a conservation officer; and
- (b) deliver its valuable parts to a conservation officer, or advise the officer of where it is located if the person cannot reasonably deliver those parts.

Disposal

(2) The conservation officer to whom any valuable parts of big game are delivered shall, where practicable, dispose of it in accordance with the directions of the RWO and the NWMB.

No unlawful removal or posting

101. No person shall, without lawful authority,

- (a) remove, alter, destroy or deface a sign or notice posted under this Act; or
- (b) post a sign or notice purporting to prohibit or regulate activities in relation to wildlife or habitat.

Information on request

102. (1) A person shall, on the request of a conservation officer, state correctly the locality where and the date on which wildlife in the person's possession was harvested by the person or came into his or her possession.

Providing information or specimens on request

(2) A person who is or has been harvesting wildlife shall, in accordance with the regulations or the written request of the Superintendent, provide any information or specimens requested relating to the wildlife or the person's wildlife related activities.

Individual harvesting report

103. Where required by the regulations, a person harvesting wildlife shall report on his or her harvesting activities or harvesting related activities in accordance with the regulations.

PART 4

COMMERCIAL AND OTHER ACTIVITIES

Inuit Rights of First Refusal

Rights of first refusal

104. (1) Pursuant to the Agreement, Designated Inuit Organizations have a right of first refusal within the Nunavut Settlement Area to

- (a) establish and operate facilities, other than government facilities, for the purpose of indigenous wildlife and reindeer propagation, cultivation or husbandry;
- (b) market, as defined in Section 5.1.1 of the Agreement, wildlife and wildlife products; and
- (c) carry out any venture aimed at the commercial collection or processing of non-edible wildlife parts and wildlife products, including those available as a consequence of a kill or recoverable in an inanimate form.

Conditions

(2) Pursuant to the Agreement, the rights of first refusal under subsection (1) are subject to the following conditions, with such modifications as the circumstance require:

- (a) the Government of Nunavut is under no obligation to disclose any matter in an application which has been submitted on the faith of it being kept confidential;
- (b) all material environmental and economic information available to any government agency independent of the application itself but pertinent to it must be made available to a Designated Inuit Organization exercising the right of first refusal, notwithstanding the *Access to Information and Protection of Privacy Act*;
- (c) generally, the procedures and time requirements conforming to current practice and, specifically, the steps set out in Schedule 5-6 of the Agreement must be followed;
- (d) if a Designated Inuit Organization exercises a right of first refusal, but subsequently fails to undertake the activity in accordance with that Schedule without just cause, the Minister may declare that its right of first refusal has lapsed; and
- (e) if the Minister declares that the right of first refusal has lapsed, the activity may be made available to other applicants and the Designated Inuit Organization has no further right of refusal over such applicants, except at the discretion of the Minister.

Limitation

(3) The rights of first refusal referred to in this section do not apply to ventures that existed at the date of ratification of the Agreement or to renewals of the licences of those ventures.

Agreement

(4) The Minister and a Designated Inuit Organization may enter in an agreement respecting matters related to the implementation and exercise of the rights of first refusal referred to in this section.

Importing, Exporting and Trafficking

Import of wildlife

105. (1) No person shall import live wildlife, prescribed live domestic animals or prescribed dead wildlife into Nunavut, unless

- (a) he or she holds a licence authorizing it; or
- (b) the import is exempted by the regulations.

Duty of importer

(2) No person shall import wildlife or a domestic animal pursuant to a licence unless he or she ensures that the licence

- (a) is attached to the wildlife or animal, in accordance with the directions of a conservation officer; and
- (b) contains a true statement of the species and quantities of the wildlife or animal.

Export of wildlife

106. (1) No person shall export wildlife, from Nunavut, unless

- (a) he or she holds a licence authorizing it; or
- (b) the export is exempted by the regulations.

Issuing export licence

(2) An export licence must be issued upon request, unless there is a good cause for refusing it.

Maximum limit

(3) No person shall export more than any prescribed limit on the quantity of wildlife that may be exported.

No fee for an Inuk

(4) Pursuant to the Agreement, there is no fee for an export licence for an Inuk, unless the wildlife was harvested from the surplus.

Duty of exporter

(5) No person shall export wildlife pursuant to a licence unless he or she ensures that

- (a) the licence is attached to the wildlife or animal by the conservation officer or in accordance with the directions of a conservation officer; and
- (b) the licence contains a true statement of the species and quantities of the wildlife.

Inuit disposal

107. (1) Pursuant to the Agreement, an Inuk has the right to dispose freely any wildlife lawfully harvested to any person.

Nature of right

(2) Pursuant to the Agreement, the right to dispose under subsection (1) includes selling, bartering, exchanging and giving to any person.

Paramountcy

(3) For greater certainty, this section operates notwithstanding any other provision in this Act.

Trafficking in meat

108. (1) Any person operating the following businesses or facilities requires a licence to traffic in the meat of wildlife:

- (a) a restaurant, caterer and any other business that prepares food;
- (b) a meat plant;
- (c) a meat wholesaler;
- (d) a grocer; and
- (e) any other prescribed business or facility.

Trafficking in prescribed wildlife

(2) No person shall traffic in prescribed wildlife.

Exception

(3) It is not an offence to deliver wildlife to a conservation officer, a HTO, the Government of Nunavut, a museum or a court, when authorized under this Act.

Commercial buying

109. Subject to the exception in paragraph 110(b), no person shall buy wildlife as a commercial activity or above a prescribed rate or quantity without a licence authorizing it. S.Nu. 2005,c.12,s.6.

Buying raw pelts or hides

110. No person shall buy raw pelts or raw hides, unless he or she

- (a) holds a licence authorizing it; or
- (b) is acquiring or purchasing less than the prescribed quantities of raw pelts or raw hides.

Guides and Outfitters

Requirements for non-residents

111. (1) Subject to the regulations, no person who is not a resident of Nunavut shall harvest big game unless he or she

- (a) uses the services of a big game outfitter licensed under this Act; and
- (b) uses the services of, and is closely accompanied by, a licensed big game guide at all times while harvesting.

Exception

- (2) Subsection (1) does not apply if
- (a) the person is an Inuk;
 - (b) the person is exercising his or her right to harvest wildlife under section 12, 13 or 14;
 - (c) the person is an assignee exercising his or her right to harvest a quantity of wildlife under section 16; or
 - (d) the person is exercising an aboriginal right to harvest, not set out in the Agreement, in an area outside the Nunavut Settlement Area.

Further exception

- (2.1) Paragraph (1)(b) does not apply if
- (a) the HTO of the locality where the harvesting is to take place makes a written waiver of the requirement for a big game guide; or
 - (b) no big game guides are approved by the HTO of the locality where the harvesting is to take place.

Requirement for residents

(3) Subject to the regulations, no person who is a resident of Nunavut shall, for the two years following the acquisition of his or her first harvesting licence, harvest big game unless he or she uses the services of, and is closely accompanied by, a licensed big game guide at all times while harvesting.

Exception

- (4) Subsection (3) does not apply if
- (a) the person is an Inuk;
 - (b) the person is an assignee exercising his or her right to harvest a quantity of wildlife under section 16;
 - (c) the HTO of the locality where the harvesting is to take place makes a written waiver of that requirement; or
 - (d) no big game guides are approved by the HTO of the locality where the harvesting is to take place.

Inuk guide

(5) Pursuant to the Agreement, each licensed big game guide required by this section must be an Inuk. S.Nu. 2005,c.12,s.7.

Big game outfitter

111.1. (1) No person shall for compensation, without a licence authorizing it, provide or agree to provide guides, personnel or equipment to persons harvesting or wishing to harvest big game.

Duty to ensure holding of licences

- (2) A big game outfitter shall confirm that
- (a) every guide working for the outfitter is licensed as big game guide under this Act; and

- (b) every person he or she is outfitting holds a licence, or is otherwise authorized, to harvest the wildlife in respect of which the outfitting is being done.

Exemption

(3) A big game outfitter licensed under this Act does not require a permit under the *Tourism Act* to conduct the activities licensed under this Act. S.Nu. 2005,c.12,s.8; S.Nu. 2016,c.12,s.19(2).

Guiding licence

112. (1) No person shall, for compensation, act as a guide to a person harvesting game without a licence authorizing it.

Guiding for unlicensed person

(2) Each guide shall confirm that every person he or she is guiding holds a licence, or is otherwise authorized, to harvest the wildlife in respect of which the guiding is being done.

No harvesting by guide

(3) No guide shall harvest game while guiding a person who is not a resident of Nunavut, unless he or she

- (a) is assisting the person, on request, to kill game the person lawfully wounded to prevent it from escaping; or
- (b) is acting to protect life or property.

Guide exemption

(4) A guide licensed under this Act does not require a permit to act as a guide under the *Tourism Act*. S.Nu. 2005,c.12,s.9; S.Nu. 2016,c.12,s.19(3).

Other Activities

Preference in allocation of commercial licences

113. (1) Pursuant to the Agreement, in the allocation of commercial licences within the Nunavut Settlement Area, preference shall be given to

- (a) an applicant who has made his or her principal residence in the Nunavut Settlement Area for at least 18 continuous months prior to the submission of his or her application; and
- (b) applications that will likely provide direct benefits to the Nunavut Settlement Area economy, in particular through employment of local human and economic resources.

Term of licence

(2) The term of a commercial licence issued under subsection (1) must not exceed 3 years in length.

Large scale harvesting

114. (1) No person shall harvest wildlife above a prescribed rate or quantity except in accordance

- (a) with the regulations and any applicable order; and
- (b) the terms and conditions established by the Superintendent.

Terms and conditions

(2) The Superintendent may establish terms and conditions for the purpose of subsection (1) where

- (a) it is necessary to implement an accepted decision of the NWMB;
or
- (b) the Superintendent considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Tanning licence

115. (1) Subject to the regulations, no person shall tan, dye or preserve the pelt or hide of wildlife for compensation without a licence authorizing it.

Taxidermy licence

(2) No person shall prepare, preserve, stuff or mount wildlife for compensation without a licence authorizing it.

Trafficking in pelts or hides

(3) The licence of a tanner or taxidermist does not authorize the holder of the licence to traffic in raw pelts or raw hides until they have been preserved or prepared by processes authorized under his or her respective licence.

Harvesting Instruction

Giving harvesting instruction

116. (1) No person shall establish, offer or provide any organized course of instruction during which game is to be harvested, without a licence authorizing it issued with the approval of the HTO of the area in which the course will take place.

Instructors

(2) Any instructor acting under the authority of the licence shall comply with the terms and conditions of the licence and is not authorized to harvest under that licence.

Wildlife Research and Observation

Licence required

117. (1) No person shall conduct research on wildlife or collect wildlife specimens for research, without a licence authorizing it.

Interaction, manipulation or close observation of wildlife

(2) No person shall, without a licence authorizing it, establish, offer or provide any organized activity in which wildlife is the object of interaction, manipulation or close observation, including the making of a film or the provision of an expedition, safari or cruise.

Exemption

(3) The Superintendent may by written notice exempt a person from the requirement for a licence under this section where

- (a) the person obtains a permit or other authorization to engage in the activity issued under another enactment of Nunavut or Canada; and
- (b) the Superintendent is satisfied that the permit or other authorization provides protection to the wildlife equivalent to a licence issued under this Act.

Notice to HTO

(4) The Superintendent shall give a copy of the exemption notice issued under subsection (3) to any HTO in the locality where the activity is to take place.

Reporting Requirements

Special report by outfitter

118. (1) If a big game outfitter licensed under this Act has reasonable grounds to believe that this Act has been contravened by a client, or a guide or other person employed or retained by or acting on behalf of the outfitter, the outfitter shall report the contravention to a conservation officer as soon as practicable and in any event within 48 hours of learning of the contravention.

Special report by big game guide

(2) If a big game guide has reasonable grounds to believe that this Act has been contravened by a client or a person employed or retained by or acting on behalf of the guide, the guide shall report the contravention to a conservation officer as soon as practicable and in any event within 48 hours of learning of the contravention.

Additional information

(3) An outfitter or big game guide who is required to report a contravention under this section shall, on request, provide a conservation officer with the information relating to the contravention that the officer requires. S.Nu. 2005,c.12,s.10.

Commercial reporting

119. Any person who engages in large scale harvesting above the prescribed rate or quantity referred to in section 114 or engages in a prescribed commercial activity shall, in accordance with the regulations,

- (a) keep and maintain records of transactions and activities;
- (b) produce for inspection, on demand by a conservation officer, all wildlife and records in his or her possession;

- (c) submit reports to the Superintendent;
- (d) provide any further information that the Superintendent may request within the time specified by the Superintendent; and
- (e) record the prescribed information on his or her prescribed commercial documents.

PART 5

CONSERVATION AND OTHER MANAGEMENT MEASURES

Quota Limitations

Quota limitations

120. (1) Pursuant to the Agreement and subject to the terms of Article 5, the NWMB may, in the Nunavut Settlement Area,

- (a) establish, modify or remove, from time to time and as circumstances require, levels of total allowable harvest or harvesting; and
- (b) ascertain and adjust the basic needs level for Inuit harvesters and harvesters exercising their rights to harvest under section 12, 13 or 14.

Expression of total allowable harvest

(2) Pursuant to the Agreement, a total allowable harvest of a stock or population may be expressed in numbers, weight or any other method considered appropriate by the NWMB and must be expressed

- (a) in the case of a species ordinarily harvested by members of a single HTO, in terms of a community total allowable harvest; and
- (b) in the case of a species ordinarily harvested by members of more than one HTO, in terms of a regional total allowable harvest.

Basic needs level

(3) Pursuant to the Agreement,

- (a) the basic needs level constitutes the first demand on the total allowable harvest;
- (b) where the total allowable harvest is equal to or less than the basic needs level, Inuit have the right to the entire total allowable harvest; and
- (c) where the basic needs levels for Inuit harvesters and harvesters exercising their rights to harvest under section 12, 13 or 14 exceed the total allowable harvest, the total allowable harvest shall be allocated among them so as to reflect the ratio of their basic needs levels.

Order of Minister

121. The Minister may, by order, establish limits on the quantity of wildlife that may be harvested or possessed where

- (a) it is necessary to implement an accepted decision of the NWMB;
or
- (b) the Minister considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Allocations

Application

122. (1) This section applies where a total allowable harvest for any stock or population of wildlife is established.

Global allocation of surplus

(2) Pursuant to the Agreement, the NWMB must determine the allocation of any surplus in the following order and priority:

- (a) to provide for personal consumption by residents, other than Inuit, and their dependents as described in Sections 5.6.32 to 5.6.37 of the Agreement;
- (b) to provide for the continuation of existing sports and other commercial operations as described in Section 5.6.38 of the Agreement;
- (c) to provide for economic ventures sponsored by HTOs and RWOs as described in Section 5.6.39 of the Agreement; and
- (d) to provide for the allocation of the remaining surplus as described in Section 5.6.40 of the Agreement.

Individual allocations by the Minister

(3) The Minister is responsible for determining who is entitled to receive the portion of the surplus, and the quantities they are to receive, allocated to provide for

- (a) personal consumption by residents, other than Inuit, and their dependents; and
- (b) the use of the remaining surplus by persons other than Inuit, as described in Section 5.6.40 of the Agreement.

Individual allocations by the NWMB

(4) The NWMB is responsible for determining who is entitled to receive the portion of the surplus, and the quantities they are to receive, allocated to provide for

- (a) the continuation of existing sports and other commercial operations;
- (b) economic ventures sponsored by HTOs and RWOs; and
- (c) the use of the remaining surplus by Inuit, as described in Section 5.6.40 of the Agreement.

Procedure

(5) The NWMB shall establish the procedure for applying for and obtaining individual allocations of the surplus from the NWMB under subsection (4).

Allocation of basic needs level

123. (1) Pursuant to the Agreement, where a total allowable harvest for any stock or population of wildlife is established,

- (a) the RWO is responsible for allocating the regional basic needs levels for that wildlife among the HTOs in its region; and
- (b) the HTO is responsible for allocating the community basic needs levels among its members.

Record of allocations

(2) Each RWO and HTO shall, in accordance with the regulations,

- (a) keep a written record of every allocation it makes; and
- (b) send a copy of its record of allocations to the NWMB and a conservation officer designated by the Superintendent.

Allocation of licences and tags

124. (1) Subject to subsection (2), the Minister may

- (a) determine the maximum number of licences and tags that may be issued;
- (b) determine the maximum amount of wildlife that may be harvested under a licence; and
- (c) establish the manner in which licences and tags are to be allocated.

Consistency with Agreement

(2) When issuing licences and tags in respect of any stock or population of wildlife for which a total allowable harvest is established, the Minister and Superintendent shall act in a manner consistent with sections 122 and 123.

Need for licence

(3) The allocation of a share of the surplus by the NWMB under subsection 122(4) does not release a person from the obligation to obtain any licence that might otherwise be required to harvest that share.

Individual Quota Limits

Maximum if no total allowable harvest established

125. (1) Pursuant to the Agreement, where no total allowable harvest for a stock or population of wildlife is established, the maximum amount of wildlife that may be harvested by Inuit and harvesters exercising their rights to harvest referred to in section 12, 13 or 14 is the full level of his or her economic, social, and cultural needs.

Maximum if total allowable harvest established

(2) Pursuant to the Agreement, where a total allowable harvest for a stock or population of wildlife is established, the maximum amount of wildlife that a person referred to in subsection (1) may harvest is his or her allocated portion of the basic needs level or adjusted basic needs level plus any portion of the surplus allocated to him or her.

Area

(3) The limits in subsections (1) and (2) only apply within the areas where those persons have rights to harvest under this Act.

Other persons

(4) The maximum amount of wildlife that a person harvesting under a licence may harvest is the lesser of

- (a) the amount authorized by the person's licence or tag; and
- (b) any limit established by order or regulation.

Assignment

(5) For greater certainty, any quantity of wildlife lawfully assigned under this Act must be

- (a) added to the maximum amount of wildlife that may be harvested that otherwise applies to the assignee; and
- (b) subtracted from the maximum amount that may be harvested that otherwise applies to the assignor.

Assessing needs

(6) Pursuant to the Agreement, in assessing the economic, social and cultural needs of Inuit, the NWMB shall consider

- (a) the actual levels of harvest;
- (b) the availability of and accessibility to wildlife; and
- (c) the general economic, social and cultural conditions and circumstances of Inuit.

Full level of needs

(7) Pursuant to the Agreement, full level of needs for an Inuk means full level of harvest.

Tags

Requiring tags

126. (1) The regulations may require a person to hold a tag and affix it to wildlife for the purpose of

- (a) evidencing that person's authority to harvest or possess wildlife;
- (b) regulating the allocation of a share of the total allowable harvest, including the basic needs level or adjusted basic needs level;

- (c) collecting information in relation to harvesting activities; and
- (d) regulating harvesting or commercial activities in relation to wildlife.

Issuance by Superintendent

(2) The Superintendent may issue tags as part of a licence or separately.

Applicable provisions

(3) The provisions of this Act applicable to applying for, issuing, cancelling and suspending licences apply to tags, with such modifications as the circumstances require.

Issuance by RWO and HTO

(4) A RWO or HTO may issue tags for allocating the basic needs level or adjusted basic needs level in the same manner as a vendor of licences, where authorized by the regulations.

Fees for tags

127. (1) A fee may be charged for the issuance of a tag and an administrative charge may be charged for the replacement of a lost tag.

Exception

(2) No fee for the issuance of a tag shall be charged to an Inuk who is harvesting up to

- (a) the full level of his or her economic, social and cultural needs; or
- (b) the basic needs level or adjusted basic needs level.

Replacement tag

(3) The holder of a tag may receive a replacement tag without charge if the original tag is affixed to wildlife that is diseased or materially infested by parasites and the wildlife is surrendered to a conservation officer.

Regulating Times or Seasons

Open time or season

128. Subject to the regulations, the Minister may, by order, establish open and closed times or seasons for the harvesting of wildlife and specify wildlife that may be harvested at any time during the year where

- (a) it is necessary to implement an accepted decision of the NWMB;
or
- (b) the Minister considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Designating Species at Risk

Recommendations

- 129.** (1) The NSRC shall, at least once a year, make a report to the NWMB containing a
- (a) recommendation on whether a species should be designated as a species at risk, including a recommendation on any species native to Nunavut that is listed elsewhere in Canada as a species at risk;
 - (b) a recommendation on whether to change the designation of a listed species, including deleting it from the List of Species at Risk;
 - (c) a status report summarizing the best available information on the status of a species, including knowledge from any scientist, *Qaujimanilik/Thumatuyuk* or other holder of traditional knowledge that may be appropriate; and
 - (d) a priority list of species to be evaluated by the NSRC in subsequent reports.

Reasons

(2) The NSRC shall include in its report a written summary of the reasons for its recommendations.

Outside request

130. (1) The COSEWIC, any HTO, any RWO or any other person may request the NWMB to designate or change the designation of a species at risk.

Basis of request

(2) Any person or body making a request under subsection (1) must include the relevant information upon which the request is based.

Emergency designation

(3) The Minister may, in accordance with the precautionary principle, recommend that the NWMB designate a species as endangered or threatened on an emergency basis, if, in the opinion of the Minister, there is an imminent threat to the survival or recovery of a species regardless of whether sufficient information is available to form a conclusion or whether a previous recommendation has been made.

Decision of NWMB

131. (1) The NWMB shall review any recommendation it receives respecting the designation of a species at risk and make a decision on the designation of the species.

Establishing the List

(2) The Minister shall, by order, establish a List of Species at Risk that designates those species determined by an accepted decision of the NWMB to be extirpated, endangered, threatened or of special concern.

Interim and Emergency Measures for Species at Risk

Interim and emergency measures

132. (1) When a species is designated as threatened or endangered under this Act, the NWMB shall

- (a) consider whether to prohibit the harvesting, possession and trafficking of the species;
- (b) if harvesting is not to be prohibited, establish a total allowable harvest for the species or, if one has already been established, review and decide whether to modify the total allowable harvest for the species;
- (c) identify the critical habitat of the species;
- (d) review any non-quota limitation referred to in subsection 66(1) and decide whether an exemption from that non-quota limitation should be provided in accordance with subsection 66(2); and
- (e) review existing non-quota limitations relevant to the species and, where appropriate, establish, on a precautionary basis, interim or emergency non-quota limitations for the conservation of the species for the period until a recovery policy for the species is adopted.

Exceptional harvesting

(2) For greater certainty, limited harvesting, trafficking and possession of an endangered or threatened species may be authorized for the period until a recovery policy for the species is adopted, if it is not inconsistent with the conservation principles and the precautionary principle.

Licences

(3) The NWMB may, in addition to the limitations referred to in paragraph (1)(e), decide that all or any licences relating to a listed species or to any other affected species be prohibited from being issued and any existing ones be suspended or cancelled.
S.Nu. 2005,c.12,s.11.

Implementation

133. (1) The Minister shall, by order,

- (a) implement any accepted decision of the NWMB made under section 132; and
- (b) establish any other reasonable measures the Minister considers necessary or advisable to protect a listed species in respect of those matters within the jurisdiction of the Government of Nunavut.

Inuit owned lands

(2) Where a measure to protect a listed species would apply on Inuit owned lands, the Minister may only act under subsection (1) in accordance with an accepted decision of the NWMB.

Recovery of Species at Risk

Preparation of recovery policy

134. (1) The Superintendent shall prepare a policy for the recovery of each endangered or threatened species and submit it to the NWMB for approval within two years of the date the species is designated as such.

Considerations

- (2) In preparing a recovery policy, the Superintendent must
- (a) uphold the commitment to conserving biological diversity;
 - (b) apply the precautionary principle, so that if there are threats of serious or irreversible damage to the listed species, cost-effective measures to prevent the reduction or loss of the species are not to be postponed for a lack of certainty;
 - (c) determine whether recovery is technically and biologically feasible;
 - (d) consider whether the information available indicates that the species is naturally becoming extinct in Nunavut;
 - (e) consider the biological, technical and economic factors affecting the population of the species;
 - (f) consider how to accommodate Inuit harvesting activities of other species that do not affect the recovery of the species; and
 - (g) consider the status of the species outside Nunavut.

Not feasible

(3) The Superintendent must explain, in the recovery policy, the reasons for any determination that the recovery policy is not feasible.

Consultation

(4) While preparing a recovery policy, the Superintendent shall take reasonable steps to consult with

- (a) the NSRC;
- (b) any affected RWO or HTO; and
- (c) the Regional Inuit Association and Nunavut Tunngavik Incorporated in respect of any Inuit owned land administered by them under the Agreement.

Contents of recovery policy

135. (1) A recovery policy must

- (a) identify the needs of and threats to the species;
- (b) identify the viable status needed for recovery of the species;
- (c) identify options for the recovery of the species;
- (d) identify the habitat of the species;
- (e) identify the species' critical habitat, to the extent possible based on the best available information, and examples of activities that are likely to result in its destruction;

- (f) summarize the best available information on the status of the species;
- (g) set out the measures that are proposed to be taken to protect the species' critical habitat;
- (h) identify of any portions of the species' critical habitat that have not been protected under legislation or under an agreement;
- (i) set out the measures that are to be taken to implement the recovery policy, including those that address the threats to the species and those that help to achieve the population and distribution objectives;
- (j) set out a schedule for implementing the recovery policy and a list of the measures to be taken in order of priority;
- (k) set out the measures to be used to monitor the recovery of the species and its long-term viability;
- (l) evaluate the socio-economic costs of the recovery policy and the benefits to be derived from its implementation, and the costs of not proceeding with the policy; and
- (m) set out any other prescribed matters.

Adopting other strategy and plan

(2) The Superintendent may adopt a recovery strategy or recovery plan prepared in another jurisdiction as a recovery policy for the species.

Exceptional harvesting

(3) Notwithstanding the status of a species as threatened or endangered, a recovery policy may recommend the limited harvesting, trafficking and possession of the species, where it is not inconsistent with the conservation principles and the precautionary principle.

Preparation of management plan

136. The Superintendent shall, within three years after a species is listed as a species of special concern, prepare a management plan setting out appropriate measures for the conservation of the species and its habitat and submit it to the NWMB for approval.

Ecosystem management

137. A recovery policy and management plan may include provisions respecting one or more species and the management of ecosystems.

Decision of NWMB

138. (1) The NWMB shall review each recovery policy and management plan submitted by the Superintendent and decide whether to approve them.

Implementation

(2) The Minister shall ensure that each recovery policy and management plan, approved by an accepted decision of the NWMB, is implemented.

Five year review

(3) The Superintendent shall prepare, and submit to the NWMB, a review of all recovery policies and management plans, at least every five years, to determine the progress of the recovery of the species, whether any changes to the policy or plan are required or whether any new policy or plan is required.

Decision of NWMB

(4) The NWMB shall consider the review submitted by the Superintendent and decide whether any changes to the recovery policy or management plan are required or whether any new policy or plan is required.

Critical Habitat, Special Management Areas and Other Areas

Designation of critical habitat

139. (1) The Commissioner in Executive Council may, by regulation, designate specific physical areas or landforms as critical habitat where

- (a) necessary to implement a recovery policy that is approved by an accepted decision of the NWMB; or
- (b) the Minister considers it necessary or advisable to protect a listed species, other than a species of special concern, in respect of those matters within the jurisdiction of the Government of Nunavut.

No other lands suitable

(2) Privately owned lands and Inuit owned lands must not be designated as a critical habitat unless no other lands are suitable as a critical habitat.

Exemption from prohibitions

(3) The Commissioner in Executive Council may, by regulation, provide for exemptions from the prohibitions in subsection 66(1) where

- (a) it is necessary to implement an accepted decision of the NWMB; or
- (b) the Minister considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Compensation

140. The Minister shall, in accordance with the regulations, provide fair and reasonable compensation to any person for losses suffered as a result of any substantial impact from the creation of a critical habitat.

Special management areas

141. (1) The Commissioner in Executive Council may, by regulation, designate an area to be a special management area where

- (a) it is necessary to implement an accepted decision of the NWMB; or
- (b) the Minister considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Purposes of area

- (2) Special management areas may be established to
- (a) benefit one or more prescribed classes of wildlife or habitat;
 - (b) preserve the ecological integrity of the area;
 - (c) preserve biodiversity; or
 - (d) provide for the application of special wildlife management rules for the area.

Administrative areas

142. The Minister may, by order, subdivide Nunavut into different classes of administrative or geographic areas for any purpose related to comprehensive wildlife management where

- (a) it is necessary to implement an accepted decision of the NWMB;
or
- (b) the Minister considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Co-management

143. (1) Pursuant to the Agreement and subject to Section 5.2.34(c) of the Agreement, critical habitats, wildlife sanctuaries and special management areas must be co-managed by the Government of Nunavut and the Designated Inuit Organization as provided in subsection (2).

Inuit Impact and Benefit Agreement

(2) Pursuant to the Agreement, Sections 8.4.11 and 8.4.12 of the Agreement apply to a critical habitat, wildlife sanctuary and special management area, except that where an Inuit Impact and Benefit Agreement is not concluded in the process of establishing it, the committee referred to in subsection (3) shall be established when requested by the Minister or a Designated Inuit Organization.

Joint committee

(3) Pursuant to the Agreement, a joint parks planning and management committee established through an Inuit Impact and Benefit Agreement may advise the Minister or the Minister's designate, the NWMB, or other agencies, as it deems appropriate, on all matters related to the management of a critical habitat, wildlife sanctuary and special management area.

Conservation Areas

(4) For greater certainty, critical habitats, wildlife sanctuaries and special managements areas are considered to be Conservation Areas within the meaning of Section 9.1.1 of the Agreement.

Habitat protection orders

144. (1) The Minister may, by order, regulate or prohibit persons from

- (a) entering a critical habitat, wildlife sanctuary or special management area;

- (b) harvesting, disturbing or harassing wildlife in those places; or
- (c) releasing or abandoning a wild animal or domestic animal in those places or allowing a domestic animal to enter them.

Basis of order

(2) An order under subsection (1) may be made only where

- (a) it is necessary to implement an accepted decision of the NWMB;
or
- (b) the Minister considers it necessary or advisable in respect of those matters within the jurisdiction of the Government of Nunavut.

Other Matters

Right of action

145. (1) The Government of Nunavut has a right of action against any person who wilfully or negligently and without legal justification substantially alters or damages or destroys any habitat.

Damages

(2) The Minister may recover

- (a) any costs incurred for measures taken under subsections 91(4) and 93(6);
- (b) any costs that the government incurs to restore a habitat and its wildlife to, or near to, its original state; or
- (c) damages for the loss of a habitat and its wildlife, if restoration of the habitat and its wildlife is impossible.

Financial responsibility

146. (1) Subject to sections 10 to 16, the Minister may require the posting of security, in such amount and form as the Minister requires, from a person who

- (a) engages in, or proposes to engage in, an activity in a critical habitat, wildlife sanctuary or special management area; or
- (b) engages in any activity for which a licence is required under this Act.

Additional liability

(2) A payment under or forfeiture of the security does not relieve the person of any other obligation or liability under this Act.

No change in use

147. A regulation or an order made under this Act that controls, restricts or prohibits a use or activity on private lands shall not

- (a) be considered an expropriation for the purposes of the *Expropriation Act*;
- (b) be considered a change in the use of the lands for the purposes of the *Property Assessment and Taxation Act*; or

- (c) affect any exemption provided by the *Property Assessment and Taxation Act* to which the lands are subject at the time of the making of the regulation or order.

PART 6

MANAGEMENT FUNCTIONS

Minister

Minister

148. (1) The Minister is responsible for administering this Act.

Delegation

(2) The Minister may, in writing, delegate to any person any power or duty conferred or imposed on the Minister, other than the making of an order.

Powers of Minister

149. The Minister may

- (a) undertake, promote or recommend measures allowing for public co-operation in wildlife management;
- (b) co-ordinate and implement wildlife policies and programs in co-operation with other governments, bodies and agencies;
- (c) co-ordinate the development and implementation of policies and programs designed to protect and conserve wildlife and habitat;
- (d) support and implement suitable programs of education and training respecting Inuit Qaujimagatuqangit, safe and humane harvesting methods, harvester education and wildlife conservation;
- (e) take measures authorized under this Act for the protection of threatened or endangered wildlife;
- (f) initiate conferences and meetings respecting wildlife and habitat;
- (g) develop suitable guidelines and standards to optimize the effects of various development activities on wildlife and habitat;
- (h) make orders and decisions authorized under this Act; and
- (i) perform such other functions as may be required or assigned under this Act.

Interim decisions

150. (1) Pursuant to the Agreement, when urgent and unusual circumstances require an immediate modification in harvesting activities within the Nunavut Settlement Area, the Minister or the Minister's delegate may make and implement any reasonable interim decision.

Emergency decisions

(2) The Minister or the Minister's delegate may make and implement any emergency order the Minister considers necessary or advisable to protect wildlife,

including the prohibition of any activity in relation to wildlife, in respect of an area outside the Nunavut Settlement Area, or within the Settlement Area if it is not contrary to the Agreement.

Nunavut Wildlife Management Board

Establishment of NWMB

151. (1) The NWMB was established by the Agreement as an institution of public government with responsibilities for wildlife and habitat under the Agreement.

Main Instrument

(2) Pursuant to the Agreement, which recognizes that the Government of Nunavut retains ultimate responsibility for wildlife management, the NWMB is the main instrument of wildlife management in the Nunavut Settlement Area, the main regulator of access to wildlife and has the primary responsibility in relation thereto in the manner described in the Agreement.

NWMB functions

152. (1) Pursuant to the Agreement, the NWMB is responsible for performing the following functions within the Nunavut Settlement Area:

- (a) establishing, modifying or removing levels of total allowable harvest for a stock or population of wildlife;
- (b) ascertaining and adjusting the basic needs level for Inuit harvesters and harvesters exercising their rights to harvest referred to in section 12, 13 or 14;
- (c) determining the allocation of any surplus;
- (d) approving the establishment, disestablishment and changes to boundaries of critical habitats, wildlife sanctuaries and special management areas;
- (e) approving plans for management and protection of particular habitats, including areas within critical habitats, wildlife sanctuaries, special management areas and parks;
- (f) approving plans for the management, classification, protection, restocking or propagation, cultivation or husbandry of particular wildlife, including endangered species;
- (g) approving plans for the regulation of imported non-indigenous species and the management of transplanted wildlife populations;
- (h) providing advice to the Minister regarding mitigation measures and compensation to be required from commercial and industrial developers who cause damage to habitat;
- (i) approving the designation of rare, threatened and endangered species;
- (j) establishing, modifying or removing non-quota limitations on harvesting;

- (k) providing advice as to requirements for the promotion of wildlife education, information and training of Inuit for wildlife management;
- (l) establishing the qualifications for big game guides;
- (m) setting trophy fees; and
- (n) approving, after consultation with the appropriate RWO, access to Inuit owned lands by personnel of the Government of Nunavut for the purposes of wildlife management and wildlife research.

Research functions

(2) Pursuant to the Agreement, the NWMB is also responsible, within the Nunavut Settlement area, for

- (a) identifying research requirements and deficiencies pertinent to wildlife management and the rational utilization of wildlife resources, and promoting and encouraging on an ongoing basis, research aimed at meeting requirements and overcoming deficiencies;
- (b) identifying relevant persons and agencies to undertake wildlife research;
- (c) reviewing research proposals and applications, and where appropriate recommending the acceptance or rejection of such proposals to the appropriate government agency;
- (d) collecting, classifying, and disseminating wildlife statistics and information and maintaining a data base adequate for such purposes; and
- (e) carrying out all other research functions consistent with its responsibilities.

Government research

(3) Pursuant to the Agreement, the ability and right of the Government of Nunavut to continue its own research functions shall not be prejudiced by subsection (2).

Other functions under this Act

(4) In addition to its functions under the Agreement, the NWMB is responsible for performing the following functions under this Act:

- (a) approving the issuance of all species at risk licences under section 20;
- (b) approving the designation of species at risk, other than rare, threatened or endangered species within Nunavut;
- (c) approving the designation of species at risk within Nunavut but outside the Nunavut Settlement Area;
- (d) determining who is entitled to receive certain portions of the surplus, and the quantities they are to receive, under subsection 122(4);

- (e) approving recovery policies and management plans for all species at risk; and
- (f) considering and making decisions under section 132.

Other functions as agreed

(5) Pursuant to the Agreement, the NWMB may perform other activities relating to the management of wildlife in the Nunavut Settlement Area and to the regulation of access to wildlife in the Nunavut Settlement Area as agreed to by the NWMB and the Minister.

Habitat management

(6) Pursuant to the Agreement, while habitat management and protection is an integral function of wildlife management, and as such is commensurate with the NWMB's responsibilities for wildlife matters, primary responsibility for the management of lands, including flora, shall be exercised by the appropriate government agencies and such other related bodies as may be established in the Agreement.

Confidentiality

153. (1) The NWMB shall, in obtaining and disclosing information, be subject to the *Access to Information and Protection of Privacy Act* as if it were a government department.

Disclosure of information

(2) Pursuant to the Agreement, where the Government of Nunavut has a discretion to disclose any information to the NWMB, or the NWMB has a discretion to disclose information to a member of the public, it shall take into account the objects of the Agreement in exercising that discretion.

Other Wildlife Management Boards

Other wildlife management boards

154. Notwithstanding subsection 152(4), if a land claim agreement, other than the *Nunavut Land Claims Agreement*, establishes a wildlife management board with responsibilities similar to the NWMB in an area of Nunavut outside the Nunavut Settlement Area, that board shall be considered as having the same powers, duties and functions as the NWMB under this Act, with such modifications as the circumstances require, in respect of those matters coming within its jurisdiction.

Decision Making Process

Minister's initiative

155. (1) Pursuant to the Agreement, the Minister, on the Minister's own initiative, may refer a wildlife management matter to the NWMB.

Response

(2) Pursuant to the Agreement, where a matter is referred to it by the Minister, the NWMB shall deal expeditiously with it and respond with a decision in time to permit the Minister to meet his or her national and international obligations.

NWMB decisions

156. (1) Pursuant to the Agreement, every decision of the NWMB is subject to acceptance, rejection, variation or disallowance by the Minister or the Commissioner in Executive Council, as the case may be, in accordance with Sections 5.3.8 to 5.3.15 of the Agreement, except a decision to

- (a) establish the qualifications for big game guides;
- (b) set trophy fees;
- (c) approve access to Inuit owned lands by personnel of the Government of Nunavut for the purpose of wildlife management and research; and
- (d) any other decision outside the application of Section 5.3.7 of the Agreement.

Public hearings

(2) Pursuant to the Agreement, the NWMB may hold public hearings into any issue requiring a decision on its part.

Criteria for decisions by NWMB and Minister

(3) Pursuant to the Agreement, decisions of the NWMB or the Minister made in relation to harvesting wildlife within the Nunavut Settlement Area shall restrict or limit Inuit harvesting only to the extent necessary

- (a) to effect a valid conservation purpose;
- (b) to give effect to the allocation system outlined in Article 5 of the Agreement;
- (c) to give effect to other provisions of Article 5 of the Agreement;
- (d) to give effect to the provisions of Article 40 of the Agreement; or
- (e) to provide for public health or public safety.

Criteria for decision on presumption as to needs

(4) Pursuant to the Agreement, where a decision of the NWMB is made in relation to a presumption as to needs, adjusted basic needs level or Section 5.6.39 of the Agreement, the Minister may reject or disallow that decision only if the Minister determines that the decision is not supported by or consistent with the evidence that was before the NWMB or available to it.

Conservation

(5) Pursuant to the Agreement, when making decisions affecting critical habitats, wildlife sanctuaries, special management areas and parks within the Nunavut Settlement Area, the NWMB and the Minister shall take into account the special purposes and policies relating to those areas.

Distinguishing between harvesters

(6) Pursuant to the Agreement, the NWMB may distinguish between Inuit harvesters and other harvesters in establishing or removing non-quota limitations, but non-quota limitations for Inuit harvesters shall not be more severe than limitations for other harvesters.

Other considerations

(7) Pursuant to the Agreement, the NWMB and Minister in exercising their responsibilities in relation to the harvesting of wildlife shall take account of

- (a) harvesting activities outside the Nunavut Settlement Area; and
- (b) the terms of domestic inter-jurisdictional agreements or international agreements pertaining to such wildlife.

Implementation of accepted decisions of the NWMB

157. (1) Pursuant to the Agreement, the Minister shall proceed forthwith to do all things necessary to implement any decision of the NWMB, within its responsibilities under the Agreement or this Act, that

- (a) is accepted by the Minister, with any variation he or she may have made in accordance with Section 5.3.10 of the Agreement;
- (b) is not disallowed by the Minister in accordance with Section 5.3.11 of the Agreement; or
- (c) is accepted by the Commissioner in Executive Council, with any variation it may have made, in accordance with Section 5.3.15 of the Agreement.

Effect of decisions

(2) A decision of the NWMB in relation to matters relevant to this Act takes effect when it is implemented by the Government of Nunavut in accordance with this Act.

No jurisdiction

(3) For greater certainty, the Minister is not responsible for implementing any decision of the NWMB that is outside the responsibility or authority of the NWMB or outside the jurisdiction of the Government of Nunavut.

NWMB review of orders

158. (1) Pursuant to the Agreement, the NWMB shall, as soon as practicable, review any decision of the Minister under section 150, any decision of the Superintendent under section 21 or any decision of a conservation officer under section 94, if that decision is within the responsibility of the NWMB but was not made to implement an accepted decision of the NWMB.

NWMB decision

(2) After conducting a review under subsection (1), the NWMB may make a decision whether to adopt, reject or vary the decision it reviewed.

Advisory Committees

NSRC established

159. (1) There is hereby established a committee to be known as the Nunavut Species at Risk Committee to

- (a) recommend the designation or change in status of a species at risk;
- (b) advise on the content and implementation of recovery policies and management plans for species at risk;
- (c) advise on the conservation and management of species at risk and their habitats;
- (d) receive status reports on species at risk from, and liaise with, COSEWIC and the National Aboriginal Council on Species at Risk referred to in subsection 7.1(1) of the *Species At Risk Act* (Canada);
- (e) prepare status reports on species at risk; and
- (f) schedule the evaluation of potential species at risk.

Membership

(2) The NSRC consists of at least six members appointed by the Minister.

Eligibility

(3) To be eligible to be a member of the NSRC, a person must be recognized by the Minister as a scientist or *Qaujimanilik/Ihumatuyuk* having the appropriate expertise related to species at risk.

Advice on appointments

(4) Before appointing a member of the NSRC, the Minister shall seek and consider the advice of the RWOs for the names of persons they believe would be suitable for appointment.

Presiding member

(5) The presiding member of the NSRC must be a senior member of the public service.

Support

(6) The Minister may provide the professional, technical and clerical assistance to the NSRC, including assistance from a scientist and *Qaujimanilik/Ihumatuyuk* and other experts.

Elders advisory committee

160. (1) The Minister must appoint an advisory committee of elders to review current, traditional and historical types, methods and technologies of harvesting wildlife in the context of the guiding principles and concepts of Inuit *Qaujimajatuqangit* and to advise the Minister on those it considers humane and safe.

Other committees

(2) The Minister may appoint other advisory committees, including other committees of elders, to advise the Minister or the Superintendent on matters of general or specific interest in relation to wildlife or habitat.

Eligibility

(3) To be eligible to be a member of the advisory committee of elders referred to in subsection (1), a person must be recognized by the Minister as a *Qaujimanilik/Thumatuyuk* having the appropriate expertise.

Advice on appointments

(4) Before appointing a member of the advisory committee of elders referred to in subsection (1), the Minister shall seek and consider the advice of the RWOs for the names of persons they believe would be suitable for appointment.

Remuneration

161. (1) A member of the NSRC and any other advisory committee may, in accordance with guidelines under the *Financial Administration Act*, be paid an honorarium and be reimbursed for reasonable travel and other expenses necessarily incurred in carrying out that member's duties.

Tenure

(2) A member of the NSRC and any other advisory committee holds office at pleasure for such term as the Minister determines and may be re-appointed.

Not part of public service

(3) Members of any advisory committee, including the NSRC, are not to be considered part of the public service by reason only of their membership on the committee.

Superintendent

Appointment

162. (1) The Minister shall appoint a member of the public service to be the Superintendent of Wildlife.

Powers and duties

(2) The Superintendent may exercise the powers conferred and shall perform the duties imposed on the Superintendent by this Act and the regulations.

Oath of office

(3) Before taking office, the Superintendent shall take an oath or affirmation of office in the prescribed form.

Conservation Officers and Wildlife Guardians

Conservation officers

163. (1) The Superintendent may appoint any person, or designate any class of persons, with suitable qualifications and experience to act as conservation officers.

Ex officio officers

- (2) The following persons, by virtue of their office, are conservation officers:
- (a) all members of the Royal Canadian Mounted Police;
 - (b) all fishery officers appointed under the *Fisheries Act* (Canada); and
 - (c) the Superintendent.

Appointment of other employees

(3) The Superintendent may not appoint any person, or designate any class of persons, employed by another government or entity without its consent.

Oath of office

(4) Before taking office, each conservation officer, other than the officers referred to in subsection (2), shall take an oath or affirmation of office in the prescribed form.

Certificate of appointment

(5) A conservation officer must be provided with a certificate of appointment as a conservation officer in a form approved by the Minister.

Main duty

164. The main duty of each conservation officer is to ensure compliance with, and enforce the provisions of, this Act, the regulations and orders made under this Act.

Wildlife guardians

165. (1) The Superintendent may appoint persons with suitable qualifications and experience as wildlife guardians.

Powers and duties

(2) The powers and duties of a wildlife guardian and the area in which he or she may exercise and perform them shall be established by the Superintendent.

Powers and protections

(3) A wildlife guardian may be empowered to exercise some or all of the powers and receive all the protections of a conservation officer.

Hunter and Trapper Organizations and Regional Wildlife Organizations

Requirement

166. (1) Pursuant to the Agreement, each community, and each outpost camp that prefers a separate organization, shall have an HTO.

Membership

(2) Pursuant to the Agreement, membership in each HTO is open to all Inuit resident in a community.

Membership by-laws

(3) Pursuant to the Agreement, each HTO may, by by-law, provide for classes of non-voting membership and privileges that flow from membership, and may distinguish between persons who may be considered Inuit by descent or custom, but who are not enrolled under Article 35 of the Agreement and other persons.

HTO authority

- 167.** (1) Pursuant to the Agreement, an HTO may provide for
- (a) the regulation of harvesting practices and techniques among members, including the use of non-quota limitations;
 - (b) the allocation and enforcement of community basic needs levels and adjusted basic needs levels among members;
 - (c) the assignment to non-members, with or without valuable consideration and conditions, of any portion of community basic needs levels and adjusted basic needs levels; and
 - (d) generally, the management of harvesting among members.

Exercise of powers

(2) A HTO shall exercise its powers under this Act by by-law or by resolution made in accordance with its by-laws.

General operations

(3) Pursuant to the Agreement, an HTO shall develop and adopt by-laws guiding its operations in conformity with Article 5 of the Agreement.

Right of action

(4) Where a right of action in relation to wildlife accrues to an Inuk, the HTO of which that Inuk is a member may, with the consent of that Inuk, sue on that Inuk's behalf.

Requirement for RWOs

168. (1) Pursuant to the Agreement, each region shall have an RWO.

RWO authority

- (2) Pursuant to the Agreement, an RWO may provide for
- (a) the regulation of harvesting practices and techniques among the members of HTOs in the region, including the use of non-quota limitations;
 - (b) the allocation and enforcement of regional basic needs levels and adjusted basic needs levels among HTOs in the region;

- (c) the assignment to any person or body other than an HTO, with or without valuable consideration and conditions, of any portion of regional basic needs levels and adjusted basic needs levels; and
- (d) generally, the management of harvesting among the members of HTOs in the region.

Exercise of powers

(3) A RWO shall exercise its powers under this Act by by-law or by resolution made in accordance with its by-laws.

General operations

(4) Pursuant to the Agreement, a RWO shall develop and adopt by-laws guiding its operations in conformity with Article 5 of the Agreement.

Exercise of authority

169. (1) Pursuant to the Agreement, HTOs and RWOs shall not exercise their authority under paragraph 167(1)(a) or 168(2)(a) in such a way as to conflict with any provision of this Act, the regulations or an order governing harvesting practices and techniques.

Dispute resolution

(2) Each HTO and RWO must, by by-law, provide a dispute resolution process for persons aggrieved by any decision it makes in respect of matters under this Act, either in accordance with section 7 of the *Societies Act* or by appeal to its members as a whole.

Joint action

170. Pursuant to the Agreement, two or more RWOs may join together for the purpose of discharging their functions over any or all species of wildlife on a joint basis.

Guidelines on conformity of HTO

171. (1) Subject to Section 5.7.10 of the Agreement, the NWMB, RWOs and HTOs shall develop guidelines indicating the extent to which each HTO shall be obliged to conform to by-laws and decisions of the RWO in its region.

Conformity with RWO by-laws and decisions

(2) Pursuant to the Agreement, each HTO shall, in accordance with the guidelines, conform to RWO by-laws and decisions in relation to allocation of regional basic needs levels and adjusted basic needs levels.

Individual consumption needs

(3) Pursuant to the Agreement, no by-law or decision of an HTO or RWO shall unreasonably prevent an individual Inuk from harvesting for the purpose of meeting the consumption needs of himself or herself and his or her dependents.

Discipline of members

172. (1) Pursuant to the Agreement, each RWO and HTO shall develop its own by-laws to discipline the members of the HTO subject to its jurisdiction, for contraventions of its by-laws.

Members subject to by-laws

(2) Pursuant to the Agreement, every member of a HTO or RWO is subject to the by-laws of his or her organization.

Maximum fine

(3) Notwithstanding section 8 of the *Societies Act*, a RWO or HTO that is incorporated under that Act may, by by-law, impose a penalty not exceeding \$500 on any member of the organization contravening its by-laws and the penalty may be recovered as a debt due from the member to the organization.

No offence

(4) A violation of a by-law is not an offence under this Act, unless a provision of this Act specifically provides otherwise.

Recommendations

173. (1) A RWO or HTO may, on the basis of its experiences in relation to the Act, submit to the Minister or the NWMB written recommendations respecting provisions concerning the management of wildlife or habitat for incorporation into the Act, regulations and orders.

Consideration

(2) The Minister and the NWMB shall give due consideration to the recommendations submitted under subsection (1).

Makivik

174. (1) The powers and duties of a HTO or RWO in respect of the Inuit of Northern Quebec are to be exercised and performed by the Makivik Corporation, which represents the Inuit of Northern Quebec.

Other organisations

(2) The powers and duties of a HTO or RWO in respect of members of an aboriginal people of the Northwest Territories, and members of a Manitoba band or a Saskatchewan band may be exercised and performed by the organisation or band that represents them.

PART 7

ADMINISTRATIVE MATTERS

Agreements

Agreements

175. (1) The Minister may enter into agreements with governments, bodies, agencies or persons relating to any matter coming within the purpose of this Act, including agreements with the NWMB regarding other functions to be performed by the NWMB.

Role of NWMB

(2) The Minister must provide the NWMB with a role in the negotiation or amendment of domestic inter-jurisdictional agreements, commensurate with the NWMB's status and responsibilities in the management of wildlife.

Minister's Reports

Five year report

176. The Minister shall, within 12 months of the coming into force of this Act and at least every five years afterward, prepare and lay before the session of the Legislative Assembly following the close of the fiscal year, a report containing

- (a) a review of wildlife and habitat management programs and an assessment of their effectiveness;
- (b) a review of the effectiveness of the relationships among the various persons and bodies managing wildlife and habitat;
- (c) an analysis of trends in, and a forecast of demands for, the use of wildlife resources in Nunavut;
- (d) an evaluation of the capability of wildlife resources in Nunavut to meet anticipated demands;
- (e) an assessment of the state of biodiversity in Nunavut;
- (f) a report on the status of any species at risk;
- (g) a review of the compliance and enforcement activities under the Act; and
- (h) any other matter the Minister considers important.

Annual Fund report

177. (1) The Minister shall provide an annual report to the Legislative Assembly containing

- (a) the annual audit of the Fund;
- (b) the source and amount of each contribution to the Fund;
- (c) the recipient and amount of each payment made from the Fund; and
- (d) a description of the purpose for which each payment was made from the Fund.

Time of report

(2) The annual report referred to in subsection (1) must be provided within 60 days of the end of the fiscal year.

Liability

Government liability

178. (1) The Minister, the Superintendent, conservation officers, wildlife guardians, and their agents, representatives and persons acting on their behalf, are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of their duties or powers under this Act.

NWMB liability

(2) Pursuant to the Agreement, the NWMB, in discharging any duties or in exercising any powers in good faith, shall not be liable to any person for any loss or damage howsoever occurring.

Liability

(3) Subject to Part X of the *Financial Administration Act*, no proceedings lie against the Minister under this Act for any act or omission that he or she, acting in good faith, reasonably believes was required or authorized by this Act regarding the Fund.

Financial Matters

Fees and royalties

179. (1) The Commissioner in Executive Council, may

- (a) establish and charge fees for any licence, tag, document, examination or other thing required under this Act;
- (b) establish and charge fees for the use of Commissioners land or land acquired for the purpose of this Act;
- (c) establish and charge fees for the use of facilities, equipment, services or other things provided by the Government of Nunavut relating to wildlife or habitat; and
- (d) charge royalties established in accordance with the regulations.

Refund

(2) The Commissioner in Executive Council may direct the refund of all or part of a fee or royalty if it considers it equitable to do so.

Payment required

(3) A person shall pay any fees or royalties required to be paid under this Act.

Sale of products and services

180. The Minister may sell, or authorize the sale of, products and services produced by the Government of Nunavut, or on its behalf, relating to wildlife or habitat.

Natural Resources Conservation Trust Fund

Continuation of Fund

181. (1) The Natural Resources Conservation Trust Fund, a special purpose fund established under the *Natural Resources Conservation Trust Act*, is continued under this Act.

Purposes of Fund

- (2) The purposes of the Fund are to
- (a) promote the wise use of wildlife and habitat, through education, research and demonstration;
 - (b) conserve or enhance wildlife and habitat, including biological diversity;
 - (c) acquire and manage land for the conservation or enhancement of a population of a species of wildlife and its habitat;
 - (d) promote education and training respecting Inuit Qaujimaqatuqangit, safe and humane harvesting methods, harvester education and wildlife conservation; and
 - (e) promote knowledge and awareness of wildlife and habitat, or of the Fund.

Administration

182. (1) The Minister shall administer the Fund in accordance with its purposes and this Act.

Donations

(2) The Minister may accept donations, bequests and payments for deposit in the Fund.

Conditional donations

(3) The Minister may accept donations, bequests or payments that are subject to conditions if the conditions are, in the opinion of the Minister, appropriate to the purposes of the Fund.

Compliance with conditions

(4) Where the Minister accepts donations, bequests or payments that are subject to conditions, the Minister is bound to comply with those conditions.

Refusal of funds

(5) The Minister may refuse to accept donations, bequests or payments.

Capital deposits

183. (1) The following must be paid into the capital portion of the Fund:

- (a) surcharges on licences or tags collected under this Act;
- (b) fines and surcharges in relation to offences under this Act collected under the *Summary Conviction Procedures Act*;

- (c) revenue derived from fund raising and the sale of promotional, educational or other materials, goods or services;
- (d) money acquired by gift, donation or bequest or by disposition of any land acquired for the purposes of the Fund;
- (e) proceeds from the disposition of any thing forfeited to the Government of Nunavut under this Act; and
- (f) money received as contributions to the Fund under an appropriation or requisition, or from the Government of Canada, municipal corporations or other government bodies.

Interest

(2) The Fund shall earn interest at a rate to be fixed under the *Financial Administration Act*.

Income portion

- (3) The following must be paid into the income portion of the Fund:
- (a) interest calculated on and attributable to the balance in the Fund; and
 - (b) any other income generated by the Fund.

Payments

184. (1) The Minister may make payments out of the Fund for any of its purposes and for the administrative costs of managing the Fund.

Payments from the income portion

(2) Payments may only be made from the income portion of the Fund, unless the Minister gives prior approval for payment out of the capital portion.

Conditional payments

(3) Where the Minister has accepted conditional funds, the Minister may make payments from those funds only in accordance with the applicable conditions.

Submissions

185. The Minister may establish criteria and procedures for submissions for funding.

Fiscal year

186. (1) The fiscal year of the Fund is same as for the Government of Nunavut.

Accounts

(2) The Minister shall keep the accounts of the Fund for each fiscal year, which must be audited in accordance with the *Financial Administration Act*.

Documents, Notices and Signs

Forms

187. (1) Subject to subsection (2), any document required under this Act must be in the form approved by the Minister.

Form of assignments

(2) The Minister may, for the purpose of this Act, establish the form of an assignment under the Agreement, only if there is a general consensus on the form with RWOs and HTOs.

Conditions

(3) The form of an assignment established under subsection (2) shall provide an appropriate space for the addition of any conditions that a RWO, a HTO or the assignor has authority to impose.

Records retention

(4) Any record or document required to be kept under this Act must be retained for a period of at least two years.

Method of notice

188. Where any notice, order or other document is required to be given, served or sent under this Act, it is deemed to be properly given, served or sent when

- (a) a copy is personally given or provided to the person to whom it is directed;
- (b) a copy is given or provided by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt is received;
- (c) a copy is sent by registered mail to the last recorded address of the person; or
- (d) a copy is sent by registered mail to the person's last known address, if the person held no licence.

Posting signs and notices

189. A conservation officer, or a person acting under the instructions of a conservation officer, may post signs or notices the officer considers necessary or advisable in order to carry out the provisions of this Act.

Regulations

NWMB responsibilities

190. For greater certainty, the regulations must be consistent with the accepted decisions of the NWMB and the decisions of the NWMB referred to in paragraphs 156(1)(a), (b), (c) and (d).

Licences and tags

191. The Commissioner in Executive Council may make regulations in relation to licences and tags, including regulations

- (a) establishing licences and tags;
- (b) specifying the activities authorized by or under them;
- (c) subdividing licences or tags into classes according to prescribed criteria;
- (d) establishing conditions precedent to obtaining licences or tags and specifying qualifications required to obtain and hold them, including training and testing;
- (e) respecting conditions of eligibility, including proof of financial responsibility or insurance for third party liability;
- (f) prescribing conditions to which licences and tags are subject;
- (g) limiting the number of any class that may be issued and establishing a system for limiting the number;
- (h) respecting the remuneration and control of vendors;
- (i) requiring the holding of a licence or tag before engaging in a specific activity in relation to wildlife or habitat;
- (j) specifying those things that the holder of a licence is entitled to do under a licence or tag;
- (k) respecting stamps, certificates, seals and component parts of licences or tags;
- (l) respecting the refusal to issue or the suspension or cancellation of licences or tags;
- (m) respecting lost licences or tags, whether or not valid and subsisting;
- (n) authorizing licences or tags to be transferred, bought, sold or used; and
- (o) providing for the distribution or allocation of licences or tags, including the methods of and procedures for distribution or allocation.

Trafficking

192. The Commissioner in Executive Council may make regulations respecting the trafficking in wildlife, including

- (a) exempting certain classes or types of wildlife from the requirement for an import or export licence;
- (b) regulating or prohibiting the importation into, exportation from and transportation within Nunavut of wildlife; and
- (c) establishing maximum amounts of wildlife that may be exported in various circumstances.

Education

193. The Commissioner in Executive Council may make regulations in relation to education and training respecting Inuit Qaujimaqatuqangit, safe and humane harvesting methods, harvester education and wildlife conservation, including regulations

- (a) respecting courses and examinations on these matters; and
- (b) requiring persons to successfully complete a course or examination before engaging in any activity requiring a licence.

Species at risk

194. The Commissioner in Executive Council may make regulations respecting

- (a) the process for designating a species at risk;
- (b) the operation of the NSRC;
- (c) the form and content of a recovery policy or management plan; and
- (d) the harvesting of, harming of, harassment of, disturbance of, interference with, trafficking in and possession of extinct species or species at risk.

Harvesting

195. The Commissioner in Executive Council may make regulations

- (a) prohibiting or regulating the harvesting of wildlife;
- (b) regulating the certification and disposal of wildlife found or acquired, otherwise than in accordance with a right or licence;
- (c) respecting public safety in connection with harvesting activities, including prohibiting or regulating activities that may pose a threat to the health or safety of the public;
- (d) respecting the capture of live wildlife and the keeping of wildlife in captivity;
- (e) requiring hides or pelts to be sealed or marked in accordance with the regulations and governing their sealing and marking;
- (f) requiring harvesters or big game guides, or a specified class of them, to carry the equipment, supplies or other things or to wear the clothing or attach the material or other things to their clothing that may be prescribed in the regulations;
- (g) prohibiting, regulating or authorizing the use of specified types, methods and technologies of harvesting of wildlife, including traps, weapons;
- (h) respecting the use and possession of equipment used while harvesting;
- (i) prohibiting or regulating the use of vehicles or other conveyances in relation to wildlife or habitat;
- (j) respecting the collection and disposition of wildlife or birds' nests;
- (k) respecting the marking, by tags, seals or otherwise, of lawfully harvested wildlife;
- (l) respecting the registration of trapping areas and the allocation to certain harvesters of the exclusive rights to harvest and possess furbearers in registered trapping areas; and
- (m) respecting the possession of wildlife.

Commercial and other activities

- 196.** The Commissioner in Executive Council may make regulations
- (a) defining what constitutes commercial activity for various purposes relating to wildlife and habitat;
 - (b) prescribing commercial activities for various purposes relating to wildlife and habitat;
 - (c) prohibiting or regulating commercial activities relating to wildlife and habitat, including wildlife research, the collection of specimens for research and organized activities in relation to wildlife or habitat;
 - (d) respecting liability and financial responsibility for commercial activities;
 - (e) respecting the licensing of commercial activities;
 - (f) respecting the standards and quality of services for commercial activities, including services provided by big game guides; and
 - (g) respecting the erection, establishment and operation of camps, buildings or accommodation used in connection with harvesting wildlife.

Management

- 197.** The Commissioner in Executive Council may make regulations
- (a) respecting the harvesting of wildlife in relation to its characteristics, including sex, age, species or size of wildlife;
 - (b) prohibiting or regulating the harvesting of wildlife in relation to time, season, area or geographic location;
 - (c) establishing quotas on harvesting and methods for determining quotas;
 - (d) respecting the consumptive and non-consumptive use of wildlife; and
 - (e) fixing open and closed times or seasons for harvesting wildlife.

Habitat

- 198.** (1) The Commissioner in Executive Council may make regulations respecting critical habitats, wildlife sanctuaries and special management areas, either generally or specifically, including regulations respecting
- (a) the harvesting and management of wildlife in those places;
 - (b) the preservation, maintenance and restoration of habitats in those places;
 - (c) the regulation or prohibition of access to those places;
 - (d) the use, control and management of habitat in those places; and
 - (e) any activity in or use of those places, including the exploration, prospecting, claims staking and production of metals, minerals, oils or gas and the construction, operation and maintenance of any building, structure or thing.

Compensation

- (2) The Commissioner in Executive Council may make regulations respecting
- (a) the procedures to be followed in claiming compensation for loss due to the creation of a critical habitat;
 - (b) the methods to be used in determining the eligibility of a person for compensation, the amount of loss suffered by a person and the amount of compensation in respect of any loss; and
 - (c) the terms and conditions for the provision of compensation.

Enforcement

199. The Commissioner in Executive Council may make regulations respecting the alternative measures that may be used in relation to this Act including regulations respecting

- (a) the form and manner in which and the period within which an application to participate in the alternative measures is to be made, and the information that must be contained in or accompany the application;
- (b) the manner of preparing and filing reports relating to the administration of and compliance with alternative measures agreements;
- (c) the types of costs, and the manner of paying the costs, associated with ensuring compliance with alternative measures agreements;
- (d) the terms and conditions that may be included in an alternative measures agreement and the effects of those terms and conditions; and
- (e) the powers, duties and remuneration of wildlife guardians.

Land claims agreements

200. The Commissioner in Executive Council may make regulations respecting the recognition and implementation of the Agreement or any other land claims agreement, including

- (a) exempting of any area or region of Nunavut or a class or group of persons to which the agreement applies from any provision of this Act or the regulations;
- (b) adopting or implementing decisions of the NWMB;
- (c) adopting or implementing decisions made by any other body given decision making power in respect of wildlife or habitat management under the agreement; and
- (d) prescribing quotas, determined in accordance with the agreement, for wildlife.

General matters

201. The Commissioner in Executive Council may make regulations

- (a) prescribing the powers, duties and obligations of vendors and their remuneration;

- (b) deeming classes of persons to be resident or non-resident in Nunavut;
- (c) respecting the making of reports on activities related to harvesting;
- (d) respecting the records to be kept and the returns or reports to be made for various purposes relating to wildlife and habitat;
- (e) respecting any other matter deemed necessary or advisable to give effect to the guiding principles and concepts of Inuit Qaujimagatuqangit under this Act;
- (f) respecting the registration of transfers, assignments and other documents used in relation to wildlife or habitat;
- (g) delegating to RWOs or HTOs, with their consent, any of the powers, duties or functions provided under any regulations;
- (h) classifying wildlife for various purposes under this Act;
- (i) establishing oaths or affirmations of office for persons performing functions under this Act;
- (j) respecting the reimbursement by the Superintendent of persons who assist a conservation officer and the rewards that may be paid in cases of successful prosecution of offences under this Act;
- (k) respecting surcharges, royalties or fees to be collected on licences and tags and on hides, pelts and other parts of wildlife for credit to the Fund;
- (l) respecting fees to be paid under this Act;
- (m) regulating any activities that would otherwise be permitted by or under a licence;
- (n) respecting the serving of the meat of game, other than for personal or family consumption;
- (o) defining any word or expression used but not defined in this Act;
- (p) prescribing anything that may be prescribed under this Act; and
- (q) respecting any other matter deemed necessary or advisable to give effect to the purpose, values and principles of this Act.

Scope of regulations

202. (1) A regulation made under this Act may be general in its application or may apply only to

- (a) a specified activity, species, licence, tag, seal, certificate, document, device or other thing, or a specified class of those things;
- (b) a specified place or part of Nunavut; or
- (c) a specified period of time.

Licence requirement

(2) A regulation made under this Act that regulates or governs an activity may require that a licence be obtained before engaging in the activity.

Differences among groups

(3) For the purposes of the regulations, different quantities, standards and conditions may be prescribed among Inuit, other aboriginal persons, residents, non-residents and other persons.

Status of orders

203. (1) Notwithstanding section 10 of the *Statutory Instruments Act*, orders of the Minister and the Superintendent made under this Act may apply with full effect immediately upon registration.

Other orders

(2) Notwithstanding the *Statutory Instruments Act*, orders of conservation officers under this Act are not statutory instruments.

PART 8

ENFORCEMENT

Powers of Conservation Officers

Entry

204. (1) A conservation officer, exercising his or her functions under this Act, and any person assisting the officer, may enter, cross and remain upon any land or water without being liable for trespass.

Show identification

(2) A conservation officer's official identification must be shown, on request, to the occupant or person in charge of any place the officer is inspecting or searching under this Act.

Power of arrest

205. (1) A conservation officer may, without a warrant, arrest any person he or she finds committing an offence under this Act.

Powers of peace officer

(2) A conservation officer shall have all the powers of a peace officer at common law.

Limitations

(3) The Superintendent may, by written direction, specify limits on the powers referred to in subsection (1) or (2) when appointing any person or designating any class of persons to act as conservation officers.

Protections

206. A conservation officer shall have all the protections available under the *Criminal Code* (Canada) to peace officers acting in the course of their duties.

Officers exempted

207. (1) The offence provisions of this Act and the regulations do not apply to conservation officers, and persons acting under their direction and control, engaged in the performance of their duties in good faith.

Specific exemptions

(2) Subject to subsection (3), where the Superintendent believes that it is necessary for a conservation officer to be allowed to act in contravention of any provision of this Act, the regulations or an order in order to carry out an investigation or enforcement activity, the Superintendent may grant a specific and limited exemption to a conservation officer, and any person acting under his or her direction and control, from the application of that provision on any terms and conditions that the Superintendent considers necessary or advisable.

Warrant provisions confirmed

(3) Nothing in this section authorizes the Superintendent to exempt conservation officers from complying with the provisions of this Act respecting the need to obtain a warrant to search or seize any thing or place.

Power to administer oaths

208. A conservation officer may administer an oath or affirmation as if the officer were a commissioner for oaths to a person making a written declaration or affidavit in respect of any matter relating to the administration of this Act.

Inspections

Inspection

209. (1) For the purpose of ensuring compliance with any provision of this Act, the regulations or an order under this Act, a conservation officer may, at any reasonable time,

- (a) inspect any wildlife, firearm, licence, tag, document or other thing used or obtained in connection with a wildlife related activity or regulated under this Act; and
- (b) enter and inspect any place that the conservation officer has reason to believe is used in connection with a wildlife related activity.

Dwelling

(2) Notwithstanding subsection (1), a conservation officer may not enter or inspect a dwelling unless

- (a) the occupant or person in charge of the dwelling consents;
- (b) the entry or inspection is authorized by a warrant; or
- (c) a warrant is not required under section 212.

Inspection powers

(3) During an inspection of the thing or place referred to in subsection (1), the conservation officer may

- (a) open or cause to be opened any container whose contents may be relevant for the purpose of ensuring compliance;
- (b) inspect any thing and take samples free of charge;
- (c) require any person to produce a document for inspection or copying, in whole or in part;
- (d) seize any thing that may provide evidence for the purpose of ensuring compliance.

Assistance

(4) The owner or the person in charge of a thing or place being inspected under this Act, and every person found in the place, shall

- (a) give the conservation officer all reasonable assistance to enable the conservation officer to carry out his or her functions; and
- (b) provide the conservation officer with any information in relation to the administration of this Act that the conservation officer may reasonably require.

Search and Seizure

Searches

210. (1) If a conservation officer believes, on reasonable and probable grounds, that an offence under this Act has been committed, the officer may enter any place and search any thing or place for the purpose of obtaining evidence in relation to that offence under this Act if

- (a) the owner or person in possession of the thing or the occupant or person in charge of the place, as the case may be, consents;
- (b) the entry and search is authorized by a warrant; or
- (c) a warrant is not required under section 212.

Seizures

(2) If, during the course of an inspection or search, a conservation officer believes, on reasonable and probable grounds, that a thing is evidence in relation to an offence under this Act, the officer may seize the thing if

- (a) the seizure is authorized by a warrant; or
- (b) a warrant is not required under section 212.

Warrant

211. (1) A justice of the peace or judge may issue a warrant authorizing a conservation officer to enter a place, search any thing or place and to seize things as evidence, if the justice of the peace or judge is satisfied by information on oath that

- (a) the entry, search or seizure is justified because an offence under this Act has been committed and there are reasonable and probable

- grounds for believing that the entry, search or seizure may provide evidence in relation to the offence; and
- (b) the occupant or person in charge of the place or thing does not consent, there are reasonable and probable grounds for believing that consent will be refused or there are reasonable and probable grounds for believing that evidence may be lost if an attempt at obtaining consent is made.

Assistance order

(2) A warrant may include an order that any person named or identified in the warrant provide any assistance reasonably considered to be required to give effect to the warrant.

Application without notice

(3) A warrant may be issued, with or without conditions, on an application made without notice.

Other warrants

211.1. Where a warrant is required by section 93 or 209 in respect of a dwelling, the warrant may be issued in accordance with sections 211 and 215, with such modifications as the circumstances require, if the justice of the peace or judge is satisfied by information on oath that

- (a) the entry, inspection or search is justified because there are reasonable and probable grounds for believing that
 - (i) in respect of a warrant required by section 93, dangerous wildlife is or may be attracted to the dwelling, or
 - (ii) in respect of a warrant required by section 209, it is necessary for the purpose of ensuring compliance with any provision of this Act, the regulations or an order under this Act; and
- (b) the occupant or person in charge of the dwelling does not consent or there are reasonable and probable grounds for believing that consent will be refused.

Exigent circumstances

212. (1) A warrant is not required under this Act if distance, urgency, the likelihood of the removal or destruction of the evidence or other relevant factors do not reasonably permit the obtaining of a warrant or consent.

No entry or search of dwelling

(2) Subsection (1) does not authorize the entry and search of the living quarters of a dwelling.

Additional Powers during an Inspection or Search

Operation of equipment

- 213.** (1) In carrying out an inspection or search under this Act, a conservation officer may
- (a) use or cause to be used any computer system and examine any data contained in or available to the computer system;
 - (b) reproduce or cause to be reproduced any record or data;
 - (c) print or export any record or data for examination or copying; and
 - (d) use or cause to be used any copying equipment at the place to make copies of the record or data.

Obstruction

- (2) While a conservation officer is exercising powers or carrying out duties or functions under this Act, no person shall
- (a) knowingly make any false or misleading statement, either orally or in writing, to the conservation officer; or
 - (b) otherwise obstruct or hinder the conservation officer.

Stopping a vehicle or other conveyance

- (3) For the purpose of carrying out an inspection or search, a conservation officer may stop a vehicle or other conveyance and direct that it be moved to a convenient nearby place.

Compliance

- (4) When requested by the officer under this section, a person shall stop or move the vehicle or other conveyance.

Assistance of other persons

- 214.** The protections afforded by this Act or any other law to a conservation officer extend to other persons while and to the extent they are in the course of assisting the officer under the officer's direction.

Telewarrants

Telewarrants

- 215.** (1) Where a conservation officer believes that an offence has been committed and that it would be impracticable to appear personally before a justice of the peace or judge to apply for a warrant, the conservation officer may submit an information on oath by telephone or other means of telecommunication to a justice of the peace or judge designated for the purpose by the Chief Justice of the Nunavut Court of Justice.

Information submitted by telephone

(2) An information submitted by telephone or other non-written means of telecommunication shall be on oath and shall be recorded verbatim by the justice of the peace or judge, who shall, as soon as practicable, cause to be filed, with the Clerk of the Nunavut Court of Justice, the record or a transcription of it, certified by the justice of the peace or judge as to time, date and contents.

Information submitted by other means of telecommunication

(3) The justice of the peace or judge who receives an information submitted by a written means of telecommunication shall, as soon as practicable, cause to be filed, with the Clerk of the Nunavut Court of Justice, the information certified by the justice of the peace or judge as to time and date of receipt.

Administration of oath

(4) For the purposes of subsection (2), an oath may be administered by telephone or other means of telecommunication.

Alternative to oath

(5) A conservation officer who uses a written means of telecommunication may, instead of swearing an oath, make a statement in writing stating that all matters contained in the information are true to his or her knowledge and belief and such a statement is deemed to be a statement made under oath.

Contents of information

(6) An information submitted by telephone or other means of telecommunication shall include

- (a) a statement of the circumstances that make it impracticable for the conservation officer to appear personally before a justice of the peace or judge;
- (b) a statement of the offence alleged, the place or premises to be searched and the items alleged to be liable to seizure;
- (c) a statement of the conservation officer's grounds for believing that items liable to seizure in respect of the offence alleged will be found in the place or premises to be searched; and
- (d) a statement as to any prior application for a warrant under this section or any other search warrant, in respect of the same matter, of which the conservation officer has knowledge.

Issuing warrant

(7) A justice of the peace or judge referred to in subsection (1) may issue a warrant to a conservation officer conferring the same authority respecting search and seizure as a warrant issued when the conservation officer appears personally, and may require the warrant to be executed within a specific time period, if the justice of the peace or judge is satisfied that an information submitted by telephone or other means of telecommunication

- (a) is in respect of an offence and conforms to the requirements of subsection (6);
 - (b) discloses reasonable grounds for dispensing with an information presented personally and in writing; and
 - (c) discloses reasonable grounds for the issuance of a warrant in respect of an offence.
- S.Nu. 2018,c.9,s.2.

Formalities respecting warrant and facsimiles

216. (1) Where a justice of the peace or judge issues a warrant by telephone or other non-written means of telecommunication

- (a) the justice of the peace or judge shall complete and sign the warrant in a form similar to Form 5.1 under the *Criminal Code* (Canada), noting on its face the time, date and place of issuance;
- (b) the conservation officer, on the direction of the justice of the peace or judge, shall complete, in duplicate, a facsimile of the warrant, noting on its face the name of the issuing justice of the peace or judge and the time, date and place of issuance; and
- (c) the justice of the peace or judge shall, as soon as practicable after the warrant has been issued, cause the warrant to be filed with the Clerk of the Nunavut Court of Justice.

Issuance of warrant by facsimile

(2) Where a justice of the peace or judge issues a warrant by a written means of telecommunication

- (a) the justice of the peace or judge shall complete and sign the warrant, noting on its face the time, date and place where it was issued;
- (b) the justice of the peace or judge shall transmit the warrant by the means of telecommunication to the conservation officer who submitted the information and the copy of the warrant received by the conservation officer is deemed to be a facsimile within the meaning of paragraph (1)(b);
- (c) the conservation officer shall procure another facsimile of the warrant; and
- (d) the justice of the peace or judge shall, as soon as practicable after the warrant has been issued, cause the warrant to be filed with the Clerk of the Nunavut Court of Justice.

Providing facsimile

(3) A conservation officer who executes a warrant issued by telephone or other means of telecommunication shall, before entering the place or premises to be searched or as soon as practicable thereafter, give a facsimile of the warrant to any person present and ostensibly in control of the place or premises.

Affixing facsimile

(4) A conservation officer who, in any unoccupied place or premises, executes a warrant issued by telephone or other means of telecommunication shall, on entering the place or premises or as soon as practicable thereafter, cause a facsimile of the warrant to be suitably affixed in a prominent place within the place or premises.

Report of conservation officer

(5) A conservation officer to whom a warrant is issued by telephone or other means of telecommunication shall file a written report with the Clerk of the Nunavut Court of Justice as soon as practicable, but within a period not exceeding seven days, after the warrant was executed, which report shall include

- (a) a statement of the time and date the warrant was executed or, if the warrant was not executed, a statement of the reasons why it was not executed;
- (b) a statement of the things, if any, that were seized pursuant to the warrant and the location where they are being held; and
- (c) a statement of the things, if any, that were seized in addition to the things mentioned in the warrant and the location where they are being held, together with a statement of the conservation officer's grounds for believing that those additional things had been obtained by, or used in, the commission of an offence.

Bringing before justice of the peace or judge

(6) The Clerk of the Nunavut Court of Justice shall, as soon as practicable, cause the report, together with the information and the warrant to which it pertains, to be brought before a justice of the peace or judge to be dealt with, in respect of the things seized referred to in the report, in the same manner as if the things were seized pursuant to a warrant issued, on an information presented personally by a conservation officer, by a justice of the peace or judge.

Proof of authorization

(7) In any proceeding in which it is material for a court to be satisfied that a search or seizure was authorized by a warrant issued by telephone or other means of telecommunication, the absence of the information or warrant, signed by the justice of the peace or judge and carrying on its face a notation of the time, date and place of issuance, is, in the absence of evidence to the contrary, proof that the search or seizure was not authorized by a warrant issued by telephone or other means of telecommunication.

Duplicates and facsimiles acceptable

(8) A duplicate or a facsimile of an information or a warrant has the same evidentiary value as the original for the purposes of subsection (7).

Disposition of Things Seized

Receipt for things seized

217. (1) If a conservation officer seizes any thing under this Act, the officer shall issue a receipt describing the thing seized to the person from whom it was seized.

Initial disposition of things seized

(2) Following the seizure of any thing under this Act, a conservation officer shall ensure that proper custody of the thing is maintained and shall, as soon as practicable,

- (a) bring the matter before a justice of the peace or judge for disposition, unless the thing is returned to the owner or person entitled to it;
- (b) in the case of dead wildlife, dispose of any part of it that is not required as evidence in accordance with the directions of the Minister; and
- (c) in the case of live wildlife, keep it alive, kill it, sell it or dispose of it in any other manner agreed to by the owner.

Affidavit

(3) The conservation officer shall furnish the justice of the peace or judge with an affidavit stating

- (a) the officer's grounds for believing that an offence has been committed in respect of the thing seized;
- (b) the name of the person, if any, having physical possession of the thing at the time it was seized; and
- (c) where the thing is and how it was dealt with.

Disposition

218. (1) A justice of the peace or judge may order that a thing seized be kept by or delivered to

- (a) the Superintendent, if it is forfeited to the Government of Nunavut;
or
- (b) the owner or person entitled to it.

Temporary return

(2) Where a thing is delivered after seizure to its owner or the person entitled to it, the justice of the peace or judge may order the person to

- (a) hold the thing as bailee for the Government of Nunavut during the time limited for appeal, or any extension of that time; and
- (b) produce the thing if it is required in an appeal.

Compensation

(3) Where wildlife that was seized is lost or damaged, but is not forfeited to the Government of Nunavut, the Government of Nunavut must provide fair compensation.

Costs

(4) Where a conservation officer delivers wildlife to another person to keep it alive, the Superintendent may assess the cost of keeping it alive to its owner, the person entitled to it or the person who possessed it when it was seized, or any of them, and that cost shall be paid on demand by the person assessed and is recoverable as a debt due to the Government of Nunavut.

Request for Investigation

Application for investigation

219. (1) An HTO, RWO or other person may apply to the Minister for an investigation of whether an alleged offence under this Act has been committed.

Statement to accompany application

- (2) The application must be in writing and include
- (a) the name and address of the applicant;
 - (b) a statement of the nature of the alleged offence and the name of each person alleged to be involved; and
 - (c) a summary of the evidence supporting the allegations.

When investigation concluded

(3) The Minister must advise the applicant of the result of the investigation, when it is concluded.

Offences and Punishment

Offence

220. (1) A person who contravenes a provision of this Act, the regulations or an order made under this Act is guilty of an offence.

Attempts and accessories

(2) A person who attempts to commit an offence or is an accessory after the fact to the commission of an offence is guilty of an offence, whether or not it was possible under the circumstances to commit the offence.

Parties to offence

- (3) Every one is a party to an offence who
- (a) actually commits it;
 - (b) does or omits to do anything for the purpose of aiding any person to commit it;
 - (c) abets any person in committing it; or
 - (d) counsels another person to commit or be a party to it.

Penalties

- 221.** (1) Every person who commits an offence is liable on summary conviction
- (a) in the case of a corporation, to a fine not less than \$500 and not exceeding \$1,000,000; or
 - (b) in the case of an individual,
 - (i) to a fine not exceeding \$500,000,
 - (ii) to imprisonment for a term of not more than six months, or
 - (iii) to both a fine and imprisonment.

Subsequent offence

(2) Notwithstanding subsection (1), where a person is convicted of an offence a second or subsequent time, the person is liable to a fine not exceeding double the amount set out in that subsection.

Continuing offence

(3) A person who commits or continues an offence on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Sentencing considerations

222. When imposing a sentence, the justice of the peace or judge shall take into account, in addition to any other principles that he or she is required to consider, the following factors:

- (a) the harm or risk of harm caused by the commission of the offence;
- (b) whether the offender was found to have committed the offence intentionally, recklessly or inadvertently;
- (c) any property, benefit or advantage received or receivable by the offender through the commission of the offence;
- (d) the ability of the offender to pay a fine;
- (e) any penalty that may have been imposed on the offender by a HTO or RWO if the offender also contravened its by-laws by committing the offence;
- (f) any evidence from which the judge may reasonably conclude that the offender has a history of non-compliance with legislation designed to protect wildlife or habitat; and
- (g) all available sanctions that are reasonable in the circumstances.

Fines cumulative

223. (1) A fine imposed for an offence involving more than one member of a species may be calculated in respect of each one as though it had been the subject of a separate information and the fine then imposed is the total of that calculation.

Additional fine

(2) If a person is convicted of an offence and the justice of the peace or judge is satisfied that monetary benefits accrued or could have accrued to the person as a result of the commission of the offence,

- (a) the justice of the peace or judge may order the person to pay an additional fine in an amount equal to his or her estimation of the amount of the monetary benefits;
- (b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act; and
- (c) the additional fine is to be added to any other fine or amount of money ordered to be paid under this Act.

Failure to pay fine

224. (1) If a person fails, within the time required by law, to pay a fine imposed under this Act and is served with notice of the consequences of failure to pay under this section,

- (a) the fine may be collected as if it were a debt due the Government of Nunavut;
- (b) person's right to apply for or obtain a licence under this Act is suspended immediately and automatically on the failure to pay the fine;
- (c) all licences issued to that person under this Act are cancelled immediately and automatically on the failure to pay the fine; and
- (d) the person commits an offence if, before that fine is paid, the person
 - (i) applies for, or in any way obtains, a licence or tag under this Act, or
 - (ii) does anything for which a licence or tag under this Act is required.

Warrant of committal

(2) A term of imprisonment may be imposed on a person who fails, within the time required by law, to pay a fine imposed under this Act, and a judge may issue a warrant of committal in default of payment of the fine.

Forfeiture

Forfeiture

225. (1) Unless a justice of the peace or judge orders otherwise, any thing seized under this Act, or the proceeds of its disposition, is forfeited to the Government of Nunavut, if

- (a) the alleged offence in respect of the thing resulted in a conviction or the granting of an absolute or conditional discharge;
- (b) possession by the owner or person entitled to it would be unlawful; or
- (c) no person is entitled to possess it.

Use and disposal

(2) The Superintendent may retain, use, sell or dispose of any thing forfeited to the Government of Nunavut, in accordance with any other applicable law.

Application by person claiming interest

226. (1) A person claiming to be the owner of or entitled to a thing forfeited under this Act may apply by originating notice to a judge for an order declaring the nature and extent of the applicant's interest and that the applicant's interest is not affected by the forfeiture.

Prohibition

(2) A person convicted of the offence that resulted in the forfeiture may not apply under this section.

Deadline

(3) An application under this section must be made within 30 days after the forfeiture or such longer time that the judge may allow.

Decision

- (4) The judge may issue an order under this section if satisfied that
- (a) the applicant is innocent of any complicity or collusion in relation to the offence or alleged offence that resulted in the forfeiture; and
 - (b) the applicant had no reasonable prospect of knowing that the thing would be used in an offence.

Duty of Superintendent

- (5) If required by order under this section, the Superintendent shall, after the hearing of any appeal,
- (a) return the thing to the applicant; or
 - (b) pay to the applicant an amount equal to the value of the interest of the applicant in the thing, as declared in the order.

Liability for costs

227. (1) The owner and any person lawfully entitled to possession of any thing seized, forfeited or abandoned under this Act who are convicted of an offence, or granted an absolute or conditional discharge in respect of an offence, in relation to that thing, are jointly and severally liable for all the costs of inspection, seizure, abandonment, forfeiture or disposition incurred by the Government of Nunavut.

Excess

(2) Any proceeds of disposition of the thing forfeited to the Government of Nunavut under this Act shall be credited to the amount of any liability under subsection (1).

Collection of liability

(3) The Minister may exercise his or her discretion as to whether to take any action to collect the amount of any liability under this section.

Order of forfeiture

228. (1) When convicting a person for an offence under this Act, or granting an absolute or conditional discharge in respect of the offence, the justice of the peace or judge may, in addition to any punishment imposed, make an order regarding the forfeiture of any thing seized under this Act or any proceeds from its disposition.

Retention or sale

(2) If a fine is imposed on a person convicted of an offence under this Act, any thing seized, or any proceeds from its disposition, may be retained until the fine is paid or the thing may be sold in satisfaction of the fine and the proceeds applied, in whole or in part, in payment of the fine.

Other Judicial Powers

Other orders

229. (1) When convicting a person for an offence under this Act, or granting a conditional discharge in respect of the offence, the justice of the peace or judge may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the justice of the peace or judge, result in the continuation or repetition of the offence;
- (b) directing the person to take any action that the justice of the peace or judge considers appropriate to remedy or avoid any harm to any wildlife or habitat that resulted or may result from the commission of the offence;
- (c) directing the person to have an environmental audit conducted by a person of a class and at the times specified by the justice of the peace or judge and directing the person to remedy any deficiencies revealed during the audit;
- (d) directing the person to publish, in any manner that the justice of the peace or judge considers appropriate, the facts relating to the commission of the offence;
- (e) directing the person to perform community service in accordance with any conditions that the justice of the peace or judge considers reasonable;
- (f) directing the person to submit to the Minister, on application to the justice of the peace or judge by the Minister within three years after the conviction, any information about the activities of the person that the justice of the peace or judge considers appropriate;
- (g) directing the person to pay to the Fund an amount for all or any of the cost of remedial or preventive action taken, or to be taken, by or on behalf of the Government of Nunavut as a result of the commission of the offence;

- (h) directing the person to pay an amount of money the justice of the peace or judge considers appropriate to the Fund, in the manner prescribed by the justice of the peace or judge;
- (i) directing the person to pay, in the manner prescribed by the justice of the peace or judge, an amount to an educational institution for scholarships for students enrolled in wildlife studies;
- (j) directing the person to post a bond or security or pay to the court an amount that the justice of the peace or judge considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section; and
- (k) requiring the person to comply with any other conditions that the justice of the peace or judge considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences.

Minister publishes facts

(2) If a person fails to comply with an order directing the person to publish the facts relating to the commission of an offence, the Minister may publish those facts and recover the costs of publication from the person.

Costs

(3) The amount of compensation or costs and any interest payable on that amount constitute a debt due to the Government of Nunavut and may be recovered as such in any court of competent jurisdiction.

Application to vary sentencing

230. (1) An application for variation of an order under section 229 may be made to the Nunavut Court of Justice by the Minister, the prosecution or the person against whom the order was made.

Notice

(2) Before hearing an application under subsection (1), the judge may order the applicant to give notice of the application in accordance with the directions of the judge.

Variation of sentencing

(3) On an application under subsection (1), if the judge considers variation appropriate because of a change in circumstances, the judge may make an order doing one or more of the following:

- (a) changing the original order or any conditions specified in it;
- (b) relieving the person subject to the order absolutely or partially from compliance with all or part of the original order;
- (c) reducing the period for which the original order is to remain in effect; and
- (d) extending the period for which the original order is to remain in effect, subject to the limit that this extension must not be longer than one year.

Limit on subsequent applications

(4) If an application under subsection (1) has been heard by a judge, no other application may be made in respect of the order under section 229 except with leave of a judge.

Suspended sentence

231. (1) If the justice of the peace or judge suspends the passing of sentence on a person convicted of an offence under this Act, the justice of the peace or judge may, in addition to a probation order, make an order containing one or more of the prohibitions, directions or requirements mentioned in section 229.

Imposition of sentence

(2) If the person does not comply with the order or is convicted of another offence within the period of the suspension, the justice of the peace or judge may, on the application of the prosecution, impose any sentence that could have been imposed if the passing of sentence had not been suspended.

Prosecutions

Limitation period

232. (1) Proceedings in respect of an offence under this Act may be commenced at any time within, but not later than, two years after the day on which the subject matter of the offence became known to the Minister.

Minister's certificate

(2) A document appearing to have been issued by the Minister, certifying the day on which the subject matter of an offence became known to the Minister, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and is, in the absence of evidence to the contrary, proof of the matter asserted in it.

Liability for employees or agents

233. (1) A person may be convicted of an offence if it is established that it was committed by an employee or agent of the person during the course of his or her work, whether or not the employee or agent is identified or prosecuted for the offence, unless the person establishes that the offence was committed without the person's knowledge or consent.

Liability of corporate officers

(2) If a corporation commits an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the offence is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

Original liability

(3) Nothing in this section relieves the person who actually committed the offence from liability for it.

Due diligence

234. Unless otherwise provided in this Act, no person shall be convicted of an offence under this Act if the person establishes that the person exercised all due diligence to prevent the commission of the offence.

Evidence and Presumptions

Proof of residence

235. In a prosecution under this Act, if it is alleged that the accused was not a resident, the onus is on the accused to prove that he or she was a resident at the time of the offence.

Wildlife harvested in Nunavut

236. (1) In a prosecution under this Act, wildlife found in Nunavut is presumed to have been harvested in Nunavut, unless the contrary is proved.

Presumption of presence in Nunavut

(2) In the absence of evidence to the contrary, a species is presumed to have been present in Nunavut for at least 50 years.

Decoys

(3) Decoys and recorded or simulated wildlife calls may be authorized by the Superintendent for the purpose of enforcing this Act, and a decoy is presumed to be wildlife in the prosecution of any offence of a person who unlawfully attempts to harvest it.

Presumption of not harvesting

237. (1) In the absence of evidence to the contrary, a person is presumed not to be harvesting wildlife if, at the relevant time,

- (a) he or she possessed no weapon; or
- (b) if he or she did possess a weapon, it was sealed and his or her activity was restricted to approaching that wildlife or luring to a specific location for the sole purpose of observation or photography.

Presumption of harvesting

(2) In the absence of evidence to the contrary, a person is presumed to be harvesting wildlife if, at the relevant time, he or she is carrying a weapon or has set a trap in an area where wild animals may reasonably be expected to be found.

Presumption of possession

(3) In the absence of evidence to the contrary, the possession of wildlife in a critical habitat is proof that the wildlife was harvested in that habitat.

Sealed weapon

- (4) For the purposes of this section, a weapon is considered to be sealed if it is
- (a) in a case that is properly fastened;
 - (b) completely and securely wrapped in cloth or other material;
 - (c) in the locked compartment of a vehicle or other conveyance and the contents of the compartment are not accessible to the occupants from inside the vehicle or other conveyance; or
 - (d) rendered inoperable by the removal of the bolt or other disassembly.

Protection

(5) Evidence that a weapon is being carried only for protection from bears may be used to rebut the presumption in subsection (2).

Deemed possession

238. (1) A person shall be deemed to be in possession of wildlife if he or she knowingly

- (a) had any interest in or right to that wildlife, regardless of where the wildlife is located or who actually possesses it; or
- (b) had dead wildlife or live wildlife confined in any place that he or she owns or uses alone or with another person.

Same

(2) Where wildlife is found dead or in captivity or confinement in a camp or in a vehicle or other conveyance used wholly or partly in connection with the operation of a camp, the owner or person in charge of the camp or vehicle or other conveyance shall be deemed to be in possession of wildlife.

Exceptions

(3) Notwithstanding anything in this Act, a person is not in unlawful possession of wildlife

- (a) while reporting it within a reasonable time in accordance with section 100;
- (b) if he or she delivers it to a conservation officer as soon as practicable;
- (c) if his or her possession is solely to preserve a person's life or property; or
- (d) if his or her possession is reasonably incidental to an activity authorized by a licence, the regulations or an order made under this Act.

Certificate evidence and presumptions

239. (1) In a proceeding under this Act a certificate signed by the Superintendent certifying the following matters is, in the absence of evidence to the contrary, proof of the facts stated in the certificate and of the authority of the Superintendent without further proof of his or her appointment or signature:

- (a) whether a licence or tag was issued, renewed, suspended or cancelled;
- (b) whether a person is ineligible to apply for, hold or obtain a licence or tag;
- (c) whether a notice was issued to a person;
- (d) the identity of a person who is named in a licence or tag;
- (e) the appointment or authority of a conservation officer or wildlife guardian;
- (f) the delivery, service, mailing or giving of a notice or document by an official of the Government of Nunavut;
- (g) the sex, age, species, size or condition of wildlife, after examination by a person qualified to judge and classify wildlife; and
- (h) the status of any wildlife as an extinct species or a listed species.

Same name

(2) The fact that the person charged in an information laid in respect of an offence under this Act has the same name as the person who is referred to as being the holder of a licence in a certificate issued under paragraph (1)(d) is, in the absence of evidence to the contrary, proof that the person charged in the information is the holder of the licence or tag.

Certificates from other jurisdictions

(3) In a proceeding under this Act, a certificate relating to the analysis of a thing or a sample, signed by a person who is in charge of a laboratory operated, maintained, supported or certified by the government of Nunavut, Canada, a territory, a province, the United States of America or a state of it is, in the absence of evidence to the contrary, proof of the facts stated in the certificate and of the authority of the person signing the certificate without further proof of his or her appointment or signature.

Notice

(4) A certificate referred to in subsection (1) is not admissible in evidence, unless the accused was

- (a) given reasonable notice of the intention to submit the certificate as evidence; and
- (b) sent a copy of the certificate.

Cross-examination

(5) Where a certificate referred to in subsection (1) is admitted as evidence the accused may, with leave of the justice of the peace or judge, require the attendance of an employee of the Government of Nunavut chosen by the Minister for the purpose of cross-examination.

Presumption of time or season

240. (1) The sale or possession of wildlife, during a time or season that is not open for the harvesting of the wildlife or during another period within which the sale or possession is not permitted, is, in the absence of evidence to the contrary, proof that the person possessing or selling the wildlife has harvested the wildlife during the closed time or season.

Lack of tag

(2) The possession by a person of untagged wildlife, where the Act or regulations require tagging for harvesting or possession, is, in the absence of evidence to the contrary, proof that the wildlife was harvested or possessed contrary to the Act.

Alternate Measures

Alternative measures

241. (1) Alternative measures may be used to deal with a person alleged to have committed an offence instead of judicial proceedings under this Act only if

- (a) the measures are part of a program of alternative measures authorized by a person, or a person within a class of persons, designated by the Commissioner;
- (b) the person who is considering whether to use the alternative measures is satisfied that they would be appropriate, having regard to the needs of the person and the interests of society;
- (c) the person, after being informed of the alternative measures, fully and freely consents to participate in the alternative measures;
- (d) the person, before consenting to participate in the alternative measures, was advised of his or her right to be represented by counsel and was given a reasonable opportunity to consult with counsel;
- (e) the person accepts responsibility for the act or omission that forms the basis of the offence that he or she is alleged to have committed;
- (f) there is, in the opinion of the Minister or agent of the Minister, sufficient evidence to proceed with the prosecution of the offence; and
- (g) the prosecution of the offence is not in any way barred at law.

Restriction on use

- (2) Alternative measures may not be used to deal with a person who
- (a) denies participation or involvement in the commission of the alleged offence; or
 - (b) expresses the wish to have any charge against the person dealt with by a justice of the peace or judge.

Admissions not admissible in evidence

(3) No admission, confession or statement accepting responsibility for a given act or omission made by a person as a condition of being dealt with by alternative measures is admissible in evidence against the person in any proceedings.

Agreements

- (4) Alternative measures may include the making of an agreement containing any terms and conditions, including
- (a) terms and conditions having any or all of the effects set out in section 229; and
 - (b) terms and conditions relating to the costs associated with ensuring compliance with the agreement.

No bar to proceedings

242. (1) Subject to subsection (2), the use of alternative measures in respect of a person alleged to have committed an offence is not a bar to proceedings against the person under this Act and shall not prevent any person from laying an information, obtaining the issue or confirmation of any process or proceeding with the prosecution of any offence in accordance with law.

Dismissal of proceedings

- (2) A justice of the peace or judge must dismiss proceedings against a person who was subject to alternative measures in respect of an alleged offence, if satisfied on a balance of probabilities that
- (a) the person has totally complied with the terms and conditions of the alternative measures; or
 - (b) the person has partially complied with the terms and conditions of the alternative measures and the proceedings would be unfair, having regard to the circumstances and the person's performance with respect to the alternative measures.

PART 9

REPEAL, TRANSITIONAL & CONSEQUENTIAL AMENDMENTS

Repealed Statutes

Repeal

243. The following Acts are repealed:

- (a) the *Wildlife Act*, R.S.N.W.T. 1988,c.W-4; and
- (b) the *Natural Resources Conservation Trust Act*, R.S.N.W.T. 1988,c.122(Supp.).

Savings and Transitional Provisions

General hunting licences

244. (1) Any person holding a valid general hunting licence when this Act comes into force continues to be able to exercise the rights and privileges available under that licence for the duration of his or her life.

Not transferable

(2) The rights and privileges available under a general hunting licence may be exercised only by the person who held it when this Act comes into force, are not transferable and expire when the holder dies.

Wildlife sanctuaries

245. (1) Wildlife sanctuaries in existence when this Act comes into force continue under this Act.

Wildlife preserves

(2) Wildlife preserves in existence when this Act comes into force continue as special management areas under this Act and the rules that apply to them when this Act comes into force continue until amended or repealed.

Wildlife officers

246. Wildlife officers holding office when this Act comes into force continue as conservation officers under this Act.

Existing HTOs

247. (1) A Hunters and Trappers Association in existence when this Act comes into force is considered to be a HTO if it adapts to the provisions of the Agreement.

Existing RWOs

(2) A Regional Wildlife Association in existence when this Act comes into force is considered to be a RWO if it adapts to the provisions of the Agreement.

Dissolution of Board of Trustees

248. The Board of Trustees appointed under the *Natural Resources Conservation Trust Act* is dissolved.

Amendments

Amendments

249. Any amendment to a provision of this Act that establishes a non-quota limitation on harvesting, within the responsibilities of the NWMB, must be made in a manner consistent with the decision making process set out in sections 155 to 157.

Note

**The following provisions have been deleted for the purposes of this consolidation:
s.250 to 254 (Consequential Amendments)**

Commencement

Commencement

255. (1) This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Commissioner, on the recommendation of the Minister.

Minister's recommendation

(2) The Minister may, in accordance with a decision of the Minister under Sections 5.3.13 and 5.3.15 of the Agreement, recommend the coming into force of a provision of this Act that includes a non-quota limitation within the responsibilities of the NWMB under the Agreement.

Agreement with NWMB

(3) The Minister may recommend the coming into force of subsections 66(2) and 152(4) after an agreement is signed with the NWMB in accordance with Section 5.2.35 of the Agreement.