

SUMMARY OF BILL 58: JUSTICE ADMINISTRATION STATUTES AMENDMENT ACT

What is the purpose of Bill 58 – Justice Administration Statutes Amendment Act?

Bill 58, Justice Administration Statutes Amendment Act (JASA Act) proposes to make relatively small but necessary legislative amendments to nine Acts that support the overall system of justice in the Northwest Territories. Many of the proposed changes will improve access to justice and service delivery for NWT residents.

What statutes are being amended?

This Bill amends the following statutes that are administered by the Department of Justice:

- *Children's Law Act*
- *Coroners Act*
- *Evidence Act*
- *Judicature Act*
- *Jury Act*
- *Land Titles Act*
- *Public Trustee Act*
- *Residential Tenancies Act*
- *Retirement Plan Beneficiaries Act*

What amendments are being proposed to these statutes?

1. *Children's Law Act*

The proposed changes to the *Children's Law Act* respond to consultations conducted on the regulations to establish a child support recalculation service after amendments were made to the *Children's Law Act* in 2016. We learned that amendments to the Act are required before the recalculation service can be put in place, and for the sake of simplicity the 2016 amendments are being repealed and replaced with new amendments to the *Children's Law Act*.

Amendments include changing the Act to clarify the procedure for recalculating child support amounts payable under child support orders made under the federal *Divorce Act*. Other changes are intended to modify the original 2016 amendments to add clarity and simplify the operations of the child support recalculation service.

A child support recalculation service allows child support payment amounts to be automatically recalculated using parents' updated annual income information. A recalculation service would reduce the need for parents to go to court to update support order amounts. This would help ensure support payment amounts track increases in the cost of living, and it would also take into account changes in the

income of parents. There would still be cases where it would be necessary for a party to go to court. For example, the service would not address income changes due to unemployment.

2. Coroners Act

The proposed amendments to the *Coroners Act* are intended to provide greater clarity around the power of the Chief Coroner and to ensure the Act is consistent with current coroner practices, including:

- a) It is common practice for the Chief Coroner to assist, as necessary, a coroner in all stages of the investigation of a reportable death, including participating in the preparation of the report and death certificate. The current Act is silent on whether the Chief Coroner may assist a coroner. The Bill includes an amendment to clarify that the Chief Coroner has the power to provide necessary support to coroners at all stages of their investigation.
- b) The steps for calling an inquest in the current Act do not reflect the practice in the NWT. This has led to confusion and unnecessary delays in finalizing a coroner's report and death certificate. Currently, the Chief Coroner will make a determination, in consultation with the investigating coroner, whether or not to call an inquest. The proposed amendments will affirm the current NWT practice.
- c) Currently the *Coroners Act* allows a coroner to release the body when the investigation is complete and an inquest will not be held. However, even in cases where an inquest is needed, it would not usually be appropriate to retain the body after the investigation is complete. The proposed amendment allows an investigating coroner to release the body to the family if the investigation is complete. The amendment would still allow the Coroner to retain the body in the rare cases where it may be necessary.

3. Evidence Act

The proposed amendments to the *Evidence Act* deal with the use of electronic records as evidence. With technology changing quickly, changes to the *Evidence Act* are needed to allow for evidence that has been converted to an electronic format from a non-electronic format (e.g. paper records scanned and saved as a PDF).

Amendments have also been included to use neutral language that would recognize future technological changes in these areas.

4. *Judicature Act*

The proposed amendment to the *Judicature Act* will correct the definition of “prime business rate” in section 55 to reflect how the rate is now determined. That section deals with the prejudgment and post-judgment interest rate applied to civil judgements. The current definition in the Act dates from 1995 and is no longer accurate.

5. *Jury Act*

Section 6 of the *Jury Act* speaks to the exemptions from jury duty and is being updated to recognize that employees and contractors of the Legislative Assembly may be excused from jury duty for the one-week period prior to and throughout session. Witnesses are also exempt if jury duty would conflict with their appearance as a witness before the Legislative Assembly. This exemption is listed under section 16 of the *Legislative Assembly and Executive Council Act*, and adding these changes within the *Jury Act* would help ensure the consistent recognition of these exemptions.

6. *Land Titles Act*

This amendment proposes to increase the fee rates covered under the *Land Titles Act*. The fee rates set out in section 156 have not been increased since the fees became effective in 1994. The fee increases will be implemented in three phases over a three-year period starting on January 1, 2020.

Over the three-year period the proposed increases will:

- Increase the fee for land title transfers for property valued less than or equal to \$1 million from \$1.50 to \$2.00/\$1,000 of property value
- Increase the fee for land title transfers for property valued over \$1 million from \$1.00 to \$1.50/\$1,000 of value, and increase the base fee from \$1,500 to \$2,000
- Increase the fee with respect to mortgage registrations from \$1.00 to \$1.50/\$1,000 of property value secured by the mortgage

7. *Public Trustee Act*

The proposed amendment to the *Public Trustee Act* would allow money held in trust by the Public Trustee when a beneficiary cannot or has not been found or identified to be transferred to the Consolidated Revenue Fund, subject to the right of a beneficiary who appears later to have the money transferred to them. Currently the Public Trustee is required to indefinitely hold money in trust when efforts to locate or identify a beneficiary have been unsuccessful. This amendment will allow the

Public Trustee to transfer unclaimed funds to the Consolidated Revenue Fund after making reasonable inquiries to find or identify a beneficiary.

8. Residential Tenancies Act

The 2017-18 Annual Report of the Rental Officer flagged a number of concerns that could be addressed by way of legislative amendments. These amendments are expected to improve Rental Office wait times, and include:

- a) Amending the Act to make written reasons discretionary. The Act currently requires that written reasons be issued for **all** rental officer decisions. The reasons of the rental officer are often given orally at the hearing, but the officer must then follow up with written reasons, even though there may be no advantage to any party. Making the requirement for written reasons discretionary would save the rental officer considerable time in writing reasons that serve little purpose, and would reduce wait times for both hearing dates and issuing orders.
- b) Require that a filed application be served no less than five business days before the scheduled hearing date, or as directed by the presiding rental officer. Currently an applicant must serve a copy of the filed application on the respondent within 14 days after filing it. This is impractical for communities other than Yellowknife, given the numerous steps that must occur (filing fee must be received, documents must be filed and a schedule set for a hearing, the application and notices of attendance must be sent to the applicant by registered mail, and then the applicant must send them to the respondent).

Other amendments include allowing rental officers to provide transcripts or recordings of proceedings to parties upon request, and clarifying the roles of the Chief Rental Officer and other rental officers.

9. Retirement Plan Beneficiaries Act

The proposed amendment to the *Retirement Plan Beneficiaries Act* will bring the NWT legislation in line with provinces and other territories by providing liability protection to the administrators (e.g. investment companies) of registered plans following the death of an investor. Registered plans include registered retirement savings plans, tax-free savings accounts, and registered retirement income funds.

A scenario could arise where an investor designates a beneficiary in their registered plan and later names a different beneficiary in his or her will without notifying the plan administrator of the change. Under the NWT's current legislation the administrator could be held liable if a payment is made to the beneficiary named in

the retirement plan under this scenario. To avoid this liability plan administrators undertake complex and often costly efforts to locate and review the wills of deceased NWT investors. This can cause lengthy delays in the payment of benefits to beneficiaries. The protection provided by the proposed amendment will assist NWT residents to efficiently pass their registered plan assets to their beneficiaries after death.

Why are these amendments being advanced as an omnibus Bill instead of separate standalone legislative initiatives?

The Bill has been prepared in omnibus form to compress the drafting and review process for these small and straightforward amendments before the end of the 18th Legislative Assembly. Many of the amendments will improve the access to justice and service delivery for NWT residents, and there is a need to make these legislative changes in a timely manner.

For example, the changes to the *Children's Law Act* will improve the process for recalculating support order amounts payable under both that Act and the federal *Divorce Act*. This will make it both easier and cheaper for parents to obtain changes that ensure the amounts payable under support orders better reflect current circumstances. The passage of this Bill during the life of the 18th Assembly will allow this long-awaited service to commence by the end of 2019.

In addition, the proposed changes to the *Residential Tenancies Act* will help speed up the processing times for orders. Members of the public have indicated that the hearing process set out in the legislation takes too long. Contributing to the delays are certain requirements set out in the existing legislation, including the requirement to provide written reasons for every order. The government would like to address this issue sooner rather than later.

It should be noted that the amendments proposed in this Bill were not identified as part of the government's legislative agenda that was prepared at the beginning of the 18th Assembly. Instead, the amendments were identified as a result of issues that have arisen during the delivery of services or have been brought forward by external stakeholders.