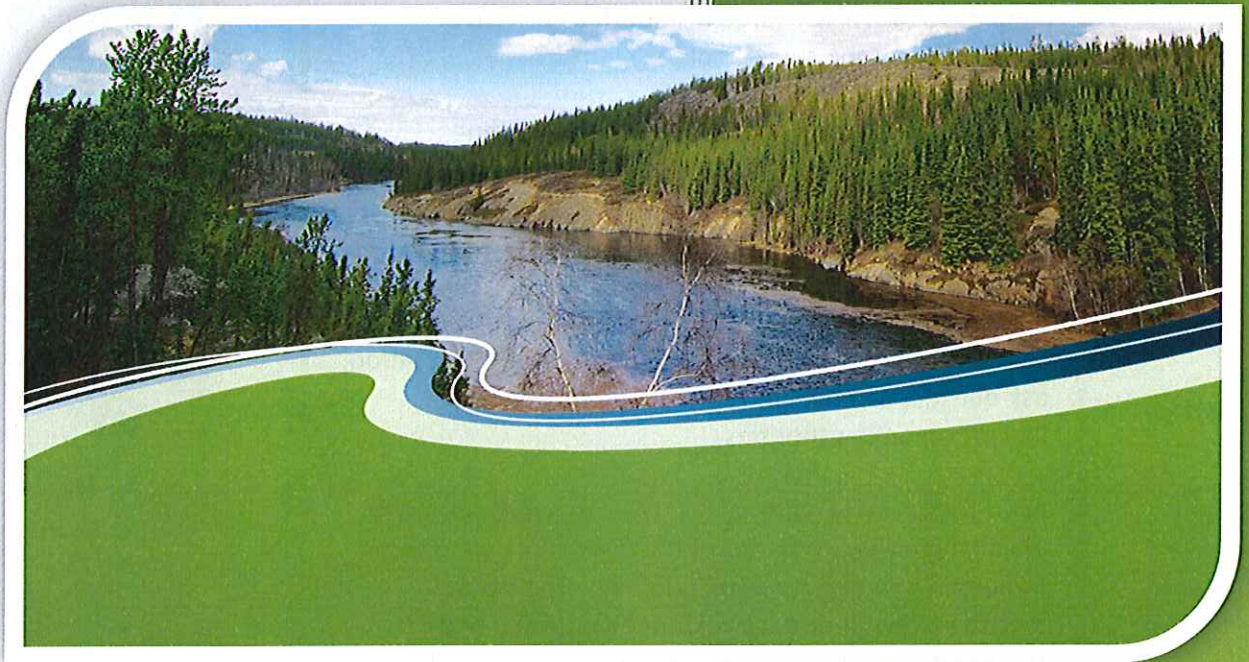


March 12, 2015

Public Review of Devolution Legislation



A Message From the Premier

Devolution has provided new opportunities for Northerners to work together to responsibly and sustainably manage the land, water and natural resources of the Northwest Territories for the benefit of current and future generations.

The GNWT mirrored 26 federal acts and regulations governing public land, water and resource management in the NWT. All were enacted as territorial legislation on April 1, 2014. This ensured a smooth transition of authorities on the transfer date.

Mirroring was a requirement of the devolution agreement and meant that the new GNWT laws address the same matters, in substantially the same way, as federal laws did before devolution.

In May 2014 we invited NWT residents to visit our website and to take the opportunity to seek clarification, ask questions and learn more about devolution legislation and authorities.

In addition to the materials on the site, which included plain language summaries of the legislation, we offered in-person meetings and full briefings. The initial 3-month review period was extended until the end of December and during that time we logged over 2000 visits to the website.

The 17th Assembly identified devolution as a key component of building a strong and sustainable future for our Territory. We are working with the existing legislation to ensure that we deliver on our promise of a more nimble, accountable government. This experience will allow us to achieve greater consensus on thoughtful and considered changes to the legislative framework when the time is right.



"This experience will allow us to achieve greater consensus on thoughtful and considered changes to the legislative framework when the time is right."

Summary Report

Public Review of Devolution Legislation

On April 1, 2014, the Government of the Northwest Territories became responsible for managing public land, water, and resources in the NWT.

This devolution was the last major transfer of powers from the federal government to the territorial government and it provided new opportunities for Northerners to work together to responsibly and sustainably manage the land, water and natural resources of the Northwest Territories for the benefit of current and future generations. Stable and well-understood legislative foundations encourage investment, growth and prosperity.

The GNWT mirrored 26 federal acts and regulations governing public land, water and resource management in the NWT. The GNWT also established three new Acts and made functional amendments to GNWT regulations, including legislation to support the Intergovernmental Council and the Resource Revenue Sharing Agreement. All were enacted as territorial legislation on April 1, 2014. This ensured a smooth transition of authorities and public service delivery on the transfer date. GNWT legislation, policies, and programs can be altered to meet Northern needs and reflect

Northern priorities. A full list of acts and regulations enacted can be found in *Appendix A*.

The GNWT has encouraged the general public to better understand the legislative process associated with devolution, including mirroring and delegation. It has provided the public with an opportunity to review devolution legislation and associated plain language summaries, (*Appendix B*) and to ask clarifying questions. Two advertising campaigns, in May and November, 2014, encouraged the public to visit a sub-site of the devolution website. The Legislation Review sub-site included the following information:

- What the legislative process was for devolution
- Mirrored legislation and what that means
- Delegation and what that means
- Plain language summary of each bill
- Links to consolidated bills
- Question submission form on the website
- Compilation and continuous updating of clarifications, responses, and new information

From May 20, 2014 to February 13, 2015, there were 2,558 visits to the website. This traffic had peaks in late May and late

November, suggesting that the advertising campaigns worked to drive people to the site. A total of 942 visitors went to the page that lists the new legislation.

There were two (2) questions from the public. The first question posed related to directors' liabilities for abandoned mine sites and the second question sought clarity around the legal obligations for those wishing to bring pet monkeys to the NWT. The first question was answered and the response posted on the Devolution Website. No one asked for in-depth or in-person briefings. Following the end of the review period In December an additional question was submitted and responded to.

Despite the low number of questions and comments, the GNWT gained a general sense of the public's interests. The most often visited Acts were:

- *Northwest Territories Lands Act* – 186 visits
- *Oil and Gas Operations Act* – 167 visits
- *Petroleum Resources Act* – 108 visits

Visitors stayed on those pages between 2.5 minutes and 5 minutes. The geographical source of the visitors was not tracked for the Legislation Review sub-site but the bulk of the visitors to

the main Devolution site during the time period were from Yellowknife (34%) then from Ottawa/Gatineau (6%). Both Inuvik (2%) and Hay River (1.3 %) had significant visitors.

Next Steps:

The GNWT launched these campaigns to solicit public comments in order to gauge the level of public interest and make decisions about further review of the legislation. Currently, all of the devolution legislation has been assigned to appropriate GNWT departments. *See Appendix A*

Each department will review their new legislation using the normal legislative review processes. This is advantageous because it allows:

- Input from policy experts
- Former federal staff to provide their understanding and input into the review
- Time for the GNWT to get experience with the current legislation before identifying the strengths and weaknesses of the current legislation

- The Assembly's priorities to dictate which legislation gets reviewed first.

The public review promoted a better understanding of the legislative process associated with devolution and provided an opportunity for residents to gather information and ask questions.

Through devolution, the Northwest Territories has taken on new responsibilities for public lands, water and resources and for the first time, Northerners will be able to pass laws and make their own decisions about how our environment is managed and protected and our resources are developed.

A comprehensive legislative change process will take time to gather the input from technical experts and many interested parties and the 18th Assembly will be well positioned to move to this next phase in the evolution of the NWT.

Appendix A

Act/ Regulation	Responsible Department
Oil and Gas Operations Act	ITI
Oil and Gas Certificate of Fitness Regulations	ITI
Oil and Gas Diving Regulations	ITI
Oil and Gas Drilling and Production Regulations	ITI
Oil and Gas Geophysical Operations Regulations	ITI
Oil and Gas Installation Regulations	ITI
Oil and Gas Operations Regulations	ITI
Oil and Gas Spill and Debris Liability Regulations	ITI
Petroleum Resources Act	ITI
Environmental Studies Research Fund Regions Regulations	ITI
Petroleum Lands Royalty Regulations	ITI
Petroleum Lands Registration Regulations	ITI
Northwest Territories Lands Act	Lands
Oil and Gas Land Regulations	ITI
Dredging Regulations	ITI
Northwest Territories Land Use Regulations	Lands
Northwest Territories Lands Regulations	Lands
Quarrying Regulations	Lands
Mining Regulations	ITI
Coal Regulations	ITI

Act/ Regulation	Responsible Department
Waters Act	ENR
Waters Regulations	ENR
Expropriation Fees Regulations	ENR
Surface Rights Board Act	Lands
Reindeer Act	ENR
Reindeer Regulations	ENR
Archaeological Sites Act	ECE
Archaeological Sites Regulations	ECE
Northwest Territories Intergovernmental Agreement on Lands and Resources Management Act	DAAIR
Northwest Territories Intergovernmental Resource Revenue Sharing Agreement Act	DAAIR
Devolution Measures Act	Various

Appendix B – Plain Language Summaries

Northwest Territories Lands Act

(mirrored legislation)

The *Northwest Territories Lands Act* provides the Government of the Northwest Territories with authority related to the disposition and use of land, including the disposition of subsurface minerals.

This legislation forms part of an integrated regulatory system of land and water resource management in the Northwest Territories with the new *Waters Act* and the *Mackenzie Valley Resource Management Act*. It provides the GNWT with the authority to lease and sell land, and sets out prohibitions on trespass and the unauthorized use of public lands. There are seven regulations under the *Northwest Territories Lands Act*, including regulations that govern the issuance of land use permits in the Inuvialuit Settlement Region, as well as 24 land withdrawal orders.

The authorities set out in the *Northwest Territories Lands Act* are the responsibility of the new Department of Lands, with the exception of the administration of subsurface minerals, which are administered by the Department of Industry, Tourism and Investment.

Petroleum Resources Act

(mirrored legislation)

The *Petroleum Resources Act* governs the leasing of GNWT-owned oil and gas rights to companies that wish to find and produce the oil and gas. This includes all GNWT-owned oil and gas rights in the onshore of the NWT, right up to the onshore/offshore boundary negotiated by Canada and the GNWT. It does not include lands retained by the federal government such as waste sites and the Norman Wells Proven Area.

Rights leased to a company under the *Petroleum Resources Act* will give the company the right to explore, and if successful, to produce oil and gas owned by the GNWT on behalf of the residents of the NWT.

Under the *Petroleum Resources Act*, oil and gas rights in unexplored areas will be issued after a public call for bids. The Minister may attach conditions to the transfer of rights including conditions for protecting the environment.

The *Petroleum Resources Act* establishes an environmental studies research fund to pay for environmental and social studies necessary to inform decisions on whether oil and gas exploration or development should be carried out in a particular area. Oil and

gas companies exploring in the NWT must make payments into this fund.

The *Petroleum Resources Act* and *Oil and Gas Operations Act* each state that no work or activity on petroleum lands shall be authorized until the Minister has approved, or waived the requirement of approval, of a benefits plan. Finally, the *Petroleum Resources Act* allows the GNWT to prescribe the royalties that companies must pay to the GNWT once commercial production is achieved.

Devolution Measures Act

The *Devolution Measures Act* made consequential amendments to almost two dozen territorial statutes in order to give effect to the Devolution Agreement and to address ambiguities or gaps that could arise from legislative initiatives required for its implementation. The *Devolution Measures Act* amended several territorial statutes to reflect variations between the former Northwest Territories Act and the new version contained in Bill C-15, the *Northwest Territories Devolution Act*.

In particular, the *Devolution Measures Act* applied the more modern terminology used in the new *Northwest Territories Act*, and updated cross-references to that statute in territorial legislation. In addition, the *Devolution Measures Act* imported a

provision from the former *Northwest Territories Act* respecting the detention of prisoners, and inserted it into the territorial *Corrections Act* to ensure against a legislative gap.

The *Devolution Measures Act* also updated cross-references in several territorial statutes to federal legislation that was mirrored in implementing the Devolution Agreement. It modified the *Financial Administration Act* to integrate the public bodies continued by the mirroring legislation.

Finally, the *Devolution Measures Act* made legislative amendments that were identified as legally necessary to implement the Devolution Agreement. While the *Devolution Measures Act* focused only on territorial statutes, similar consequential amendments were required in respect of a variety of territorial regulations, and these amendments were made by the appropriate regulation-making authorities in the usual manner.

Oil and Gas Operations Act

(mirrored legislation)

The *Oil and Gas Operations Act* governs the exploration, production, processing and transportation of oil and gas in the onshore of the Northwest Territories. It does not apply to operations on lands that were

retained by Canada such as waste sites and the Norman Wells Proven Area.

Further, it does not apply to the Enbridge pipeline, which is a transboundary pipeline that will continue to be regulated by the National Energy Board under the National Energy Board Act.

The purpose of the *Oil and Gas Operations Act* is to promote safety, protection of the environment, the conservation of oil and gas resources, and joint production agreements. The *Oil and Gas Operations Act* also empowers the Minister to approve a benefits plan or waive the requirement for such approval. There are seven regulations under the *Oil and Gas Operations Act* that were mirrored, and a new regulation was made to establish the Regulator as required by the Act.

The Department of Industry, Tourism and Investment administers the Government of the Northwest Territories' new authorities under the *Oil and Gas Operations Act*.

Northwest Territories Intergovernmental Agreement on Lands and Resources Management Act (New)

The *Northwest Territories Intergovernmental Agreement on Lands and Resources Management* is described in Chapter 4 of the Devolution Agreement as an agreement that “sets out a government-to-government relationship and provides for

mechanisms for coordination and cooperation with respect to the management of public lands and settlement lands and rights in respect of waters.”

The Government of the Northwest Territories and its Aboriginal government partners in devolution worked hard to reach an agreement that reflects their shared commitment to work together.

The goal of the *NWT Intergovernmental Agreement on Lands and Resources Management* is to provide an opportunity for the GNWT and Aboriginal governments to work collaboratively and cooperatively in areas related to land and resource management. The agreement commits all parties to work as members of an intergovernmental council to explore means of improving our respective land and resource management regimes. It will provide opportunity to discuss the potential harmonization of territorial and aboriginal practices, policies, laws and regulations with respect to land and resource management. Without cooperation and collaboration, having different land and resource management policies and practices might create inefficiencies and frustrate all parties’ efforts to maximize the benefits of resource development for the people of the NWT.

This legislation fulfills a commitment made by the GNWT in the *NWT Intergovernmental Agreement on Lands and Resources*

Management to recommend legislation for enactment by the Legislative Assembly providing for the implementation of that agreement and, in effect, fulfills the pledge made by the GNWT to implement the *NWT Intergovernmental Agreement on Lands and Resources Management*. This reflects the Assembly's goal of a strong and independent North built on partnerships.

This legislation is not mirrored legislation. It reflects a "made-in-the-NWT" approach, and there was nothing similar in existing federal legislation. The GNWT shared the draft of this legislation with the Aboriginal government parties to the Intergovernmental Agreement.

Northwest Territories Intergovernmental Resource Revenue Sharing Agreement Act (New)

This legislation was an important step towards implementing the Northwest Territories Lands and Resources Devolution Agreement and fulfilling the commitment made to reflect our Resource Revenue Sharing Agreement in legislation.

The *Northwest Territories Intergovernmental Resource Revenue Sharing Agreement Act* stands as a testament to the GNWT's commitment to working with its Aboriginal government partners. Through devolution, the GNWT collects resource revenues from public lands under its administration and control. From the

resource revenues retained by the territorial government, a share will be provided to participating Aboriginal governments.

This Resource Revenue Sharing Agreement provides direct benefits to Aboriginal governments for resource development activities throughout the onshore and allows Aboriginal governments to increase their own capacity.

This legislation fulfills a commitment made in the *NWT Intergovernmental Resource Revenue Sharing Agreement* that requires the GNWT to recommend legislation providing for the sharing of the net fiscal benefit. This reflects the vision of communities sharing in the benefits of a prosperous NWT, and the goal of a strong and independent North built on partnerships.

Surface Rights Board Act

(mirrored legislation)

The purpose of the Board is to resolve disputes over the terms and conditions of access, and the compensation to be paid with respect to that access, relating to Gwich'in lands, Sahtu lands, Tlicho lands, Inuvialuit lands or other lands, such as private, Commissioner's, or Crown land in the Northwest Territories.

There are no regulations under this Act.

The Department of Lands administers the new mirrored *Surface Rights Board Act*.

Reindeer Act

(mirrored legislation)

The Reindeer Act mirrored the provisions of the former Northwest Territories Act respecting reindeer and provides the Government of the Northwest Territories with the authority to make regulations governing the management and protection of reindeer. It also provides the GNWT with the authority to enter into agreements for herding of reindeer.

The GNWT also mirrored the Reindeer Regulations that were under the Northwest Territories Act.

The Department of Environment and Natural Resources administers the new mirrored Reindeer Act and the regulations under that act.

Archaeological Sites Act

(mirrored legislation)

The *Archaeological Sites Act* mirrored the provisions of the former Northwest Territories Act respecting archaeological, ethnological and historical resources, and provides authority to make regulations concerning the protection, care and preservation of

these resources, archaeological permitting, and seizure of inappropriately obtained items.

The GNWT also mirrored the Northwest Territories Archaeological Sites Regulations that were under the *Northwest Territories Act*.

The Department of Education, Culture and Employment administers the new mirrored *Archaeological Sites Act* and the regulations under that act, consistent with its responsibilities for the territorial *Historical Resources Act*.

