

## Statement of Consistency

### **Proposed:**

### **An Act to amend the Public Service Act**

Private Member's Public Bill

Sponsoring Member: Ms. Shauna Morgan, MLA for Yellowknife North

### Explanatory Note

The [United Nations Declaration on the Rights of Indigenous Peoples Implementation Act](#)<sup>1</sup> (*UNDRIP Implementation Act*) came into force on October 6, 2023.

Subject to certain exceptions, section 8(2) of the *UNDRIP Implementation Act* requires the sponsor of a private member's bill, before second reading, to "table a Statement of Consistency prepared by the Law Clerk of the Legislative Assembly indicating whether or not, in their opinion, the bill is consistent with the Declaration<sup>2</sup> and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*." [Section 35\(1\)](#) of the *Constitution Act, 1982* provides "The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."

A Statement of Consistency can help inform public and Legislative debate on a bill. The requirement for one appears in the *UNDRIP Implementation Act* under the heading "Consistency of Laws with Declaration", which includes section 6(1): "The Government of the Northwest Territories shall, in collaboration and cooperation with Indigenous peoples, take all reasonable measures to ensure that the laws of the Northwest Territories are consistent with the Declaration". While a private member is not the Government, section 6 and the Act as a whole inform the Statement of Consistency.

The Statement of Consistency is not a comprehensive analysis of all conceivable inconsistencies of a bill with the Declaration and section 35 of the *Constitution Act, 1982*. The bill may be amended after second reading as it passes through Committee and the House. And it is the Assembly as a whole, not the Member acting individually or the Government, that may enact the bill into law. Through representatives elected to this Assembly, Indigenous peoples and Indigenous Governments or Organizations have an opportunity to participate in that legislative process. Additional considerations relevant to

<sup>1</sup> SNWT 2023, c. 36.

<sup>2</sup> As defined in the Act, "Declaration" means the *United Nations Declaration on the Rights of Indigenous Peoples* set out in the Schedule to the Act.

the consistency of a bill with the Declaration or section 35 rights may arise during that process.

### **Analysis of the draft bill**

The draft bill has not been introduced for 1st reading. Rather, the Law Clerk understands that the Member intends to table the draft bill to inform public debate. The Member asked the Law Clerk to prepare a Statement of Consistency to inform that debate. Note that this Statement of Consistency is based on the draft bill tabled by the Member, and is subject to change if the draft bill changes.

The draft bill proposes amendments to the *Public Service Act*, establishing a separate bargaining unit for unionized nurses within the public service. The draft bill would apply to all such nurses equally.

The draft bill does not directly address any rights recognized and affirmed under section 35 of the *Constitution Act, 1982* or the Declaration.

### **Statement of Consistency**

The Law Clerk has reviewed the draft bill for consistency with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*, as per section 8(2) of the *UNDRIP Implementation Act*. This review involved consideration of the context and words of the draft bill and the Act it would amend, as well as the context, object and intention of the *UNDRIP Implementation Act* itself.

In the Law Clerk's opinion, the draft bill is not inconsistent with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.

**LAW CLERK**  
**Toby Kruger**

**March 12, 2025**