



STATEMENT OF CONSISTENCY

Bill 32: An Act to Amend the Public Service Act, No. 2

Sponsoring Minister: Caroline Wawzonek

Explanatory Note

Subsection 6(1) of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*, SNWT 2023, c.36 (“*UNDRIP Implementation Act*”) requires the Government of the Northwest Territories (“GNWT”), in collaboration and cooperation with Indigenous peoples, to take all reasonable measures to ensure the laws of the Northwest Territories (“NWT”) are consistent with the Declaration set out in the Schedule of the *UNDRIP Implementation Act*.

Subsection 8(1) of the *UNDRIP Implementation Act* requires the Attorney General to prepare a Statement of Consistency on behalf of the sponsoring Minister of a bill, indicating whether or not the bill is consistent with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. The sponsoring Minister must table the Statement of Consistency before the second reading of the bill in the Legislative Assembly. A Statement of Consistency is not required if an exception under subsection 8(3) of the *UNDRIP Implementation Act* applies.

A Statement of Consistency provides legal information to the Legislative Assembly about the bill’s potential impacts on rights of Indigenous peoples set out in the Declaration and the potential impacts on rights recognized and affirmed under section 35 of the *Constitution Act, 1982*. It is not intended to be a comprehensive overview of all conceivable inconsistencies with Indigenous and Aboriginal rights. A bill may see several amendments between second reading and its ultimate passage through the Legislative Assembly. Additional considerations relevant to the consistency of a bill with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982* may arise through that process. A Statement of Consistency will not reflect an analysis of those changes.

Background

Bill 32 amends the *Public Service Act* (“Act”) to update the framework for the management and direction of the territorial public service. The amendments include:

- adding a purpose clause to state the goals of the Act;
- setting out roles and responsibilities in the administration and management of the public service;



- updating the framework for hiring into and transferring of employees within the public service, including
 - elevating staffing review processes to the Act from their current place in the regulations; and
 - adding a clear statement of the source of affirmative action policies and programs applicable to the hiring and transferring of employees, such as the GNWT's Indigenous Employment Policy;
- shifting the authority for direct appointments and the appointment of the Equal Pay Commissioner;
- adding a clear statement of the source of terms and conditions of employment for senior managers and other excluded employees;
- providing legislative backing for the GNWT's Code of Conduct;
- clarifying the rules respecting employees' engagement in political activities;
- setting out comprehensive processes for arbitrations under the Act;
- reflecting legal developments related to the relationship between the employer and unions;
- adding a framework for grievances filed by excluded employees;
- adding provisions to address situations in which the GNWT becomes a successor employer to employees transferred from another employer to the GNWT; and
- setting out procedures for the disclosure and investigation of wrongdoing in the public service, including protections for public servants who disclose wrongdoing.

Application

The Bill governs the management and direction of the territorial public government. It does not apply to any Indigenous government or organization in the NWT, nor any lands, waters or resources identified and set out in a land, resources or self-government agreement based in the NWT.

Impacts on Rights under the Declaration and Section 35 Aboriginal and Treaty Rights

This Bill does not impact rights under the Declaration, such as the right to self-determination and self-government, rights respecting lands, territories or resources, or environmental, economic, health, cultural, religious, language or other rights, nor does it impact Aboriginal and treaty rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.

The Bill includes the provision of legislative backing for policies such as the GNWT's Indigenous Employment Policy, which offers priority hiring to Indigenous peoples. This is consistent with Article 21 of the Declaration, which provides that states shall take effective



measures and, where appropriate, special measures to ensure continuing improvement of the economic and social conditions of Indigenous peoples.

UNDRIP Statement of Consistency

The Attorney General has examined the Bill for any inconsistencies pursuant to the obligation under subsection 8(1) of the *UNDRIP Implementation Act*. This review involved consideration of the context in which the Bill was created, as well as the text of the Bill.

In reviewing the Bill, the Attorney General is of the opinion that the Bill is consistent with the Declaration and section 35 of the *Constitution Act, 1982*.