



## STATEMENT OF CONSISTENCY

### Bill 45: *Civil Forfeiture Act*

**Sponsoring Minister: Jay Macdonald**

#### **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**

The *Civil Forfeiture Act* (the “Bill”) was developed to deter and prevent criminal behaviour by allowing the GNWT to take action to seize property and proceeds resulting from or utilized in criminal activity. Most other jurisdictions in Canada have civil forfeiture legislation, and this legislation is an important tool to ensure that criminal enterprises in the NWT and elsewhere in Canada are not benefitting from criminal activities.

## **Purpose**

The purpose of this Bill, as set out in the Bill, is to permit the GNWT to seize money gained through unlawful activity and other resources used to facilitate unlawful activity, making them unavailable to fund or enable future criminal activity. The Bill also empowers the GNWT to use the funds seized under this Act to defray the costs of operating the program, compensate victims, and support initiatives to reduce crime and promote safer communities.

## **Application**

The Bill applies equally to all residents of the NWT. This Bill should be considered legislation of general application as it does not apply specifically to any Indigenous government or organization in the NWT, nor to 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*.

Though this Bill does not directly impact Indigenous or Treaty Rights, it contains language to ensure that priority is given to Indigenous or Treaty Rights should there be any incidental impacts. It includes non-derogation clauses, providing that the Act must be interpreted in a manner consistent with the recognition and affirmation of aboriginal and treaty rights, and provides that, should there be a conflict with any land, resources, or self-government agreement, that agreement shall prevail.



### **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*.