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Statement of Consistency

Bill No. 46-20(1)
Prevention of Proceedings that Hamper Expression on Matters of Public Interest Act
Private Member's Public Bill
Sponsoring Member: Mr. George Nerysoo, MLA for Mackenzie Delta

Explanatory Note

The *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act*[1] (*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[2] 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 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 the legislative process. Additional considerations relevant to the consistency of a bill with the Declaration or section 35 rights may arise during that process.

[1] SNWT 2023, c. 36.
[2] 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.

Analysis of the bill

The bill encourages expression on matters of public interest by providing a mechanism for defendants to a lawsuit that is intended to limit debate, to have that lawsuit dismissed at an early stage. The bill would apply to all individuals equally.

The 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 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 bill, as well as the context, object and intention of the *UNDRIP Implementation Act* itself.

In the Law Clerk's opinion, the bill is consistent with the Declaration and the rights recognized and affirmed under section 35 of the *Constitution Act, 1982*.

LAW CLERK
Toby Kruger

March 5, 2026